Supreme Court, U.S.
FILE

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No. _____

In The

Supreme Court of the United States

October Term, 1995

COTTER & COMPANY,

Petitioner,

v.

ILLINOIS PROPERTY TAX APPEAL BOARD, McHENRY COUNTY BOARD OF REVIEW, COMMUNITY CONSOLIDATED SCHOOL DISTRICT #47 OF McHENRY COUNTY and COMMUNITY HIGH SCHOOL DISTRICT #155 OF McHENRY AND LAKE COUNTIES,

Respondents.

On Petition For Writ Of Certiorari To The Appellate Court Of Illinois, Second Judicial District

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether a property tax assessment scheme which fails to provide notice by mail of an irrevocable change in assessment deprives taxpayers of a meaningful opportunity to be heard, thus denying their rights to due process as guaranteed by the Fourteenth Amendment to the Constitution of the United States.

LIST OF PARTIES AND RULE 29.6 STATEMENT

There are no parties to this proceeding who are not revealed in the caption of this case.

Petitioner Cotter & Company is a corporation incorporated under the laws of Delaware. It is owned cooperatively by its members, and its shares are not publicly traded.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Cotter & Company respectfully requests this Court to issue a writ of certiorari to review the final decision of the Appellate Court of Illinois, Second Judicial District, entered on December 29, 1995.

OPINIONS BELOW

The opinion of the Appellate Court of Illinois, Second Judicial District, is reported at 660 N.E.2d 1283 (Ill. App. Ct. 1995) and is reprinted in the Appendix at App. 1-16. The Illinois Supreme Court's denial of Petitioner's petition for leave to appeal is reprinted in the Appendix at App. 18.

JURISDICTION

On December 29, 1995, the Appellate Court of Illinois, Second Judicial District, entered its order affirming the decision of the Illinois Property Tax Appeal Board in this case. Petitioner timely filed a petition for leave to appeal to the Illinois Supreme Court on March 8, 1996.

On June 5, 1996, the Illinois Supreme Court denied the Petitioner leave to appeal. The mandate of that Court was issued on June 27, 1996.

Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. amend. XIV, § 1:

> No State shall make or enforce any law which shall abridge the privileges or immunities of

citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. § 1341 (1994):

The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under the State law where a plain, speedy and efficient remedy may be had in the courts of such State.

Ill. Comp. Stat. Ann. ch. 35 para. 205/20, 43 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/9-145 (Supp. 1995)).

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Ill. Comp. Stat. Ann. ch. 35 para. 205/138 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/8-40 (Supp. 1995)).

Ill. Comp. Stat. Ann. ch. 35 para. 205/146 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/17-5 (Supp. 1995)).

Ill. Comp. Stat. Ann. ch. 35 para. 205/194 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/23-10, 23-15 (Supp. 1995)).

Ill. Admin. Code tit. 86, § 1910.30(a) (1994).

STATEMENT OF THE CASE

I. Factual Background

This case concerns the 1991 property tax assessment placed against a 588,201-square-foot industrial building owned by Petitioner, Cotter & Company, located in Algonquin Township, McHenry County, Illinois. App. 2.

In 1990, the Algonquin Township Assessor assessed Petitioner's property at a total assessment of $3,489,080.[1] App. 2. The next year, 1991, was the year of the quadrennial or general assessment for all properties located

[1] The McHenry County Board of Review then adopted a township equalizer for all property located in Algonquin Township, resulting in a 1990 total equalized assessment for Petitioner's property of $3,809,020 ($319,940 more than the initial, unequalized 1990 assessment of $3,489,080). App. 2.

Illinois property is assessed at one third of its fair value. Ill. Comp. Stat. Ann. ch. 35 para. 205/43, 205/20 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/9-145(a) (Supp. 1995)).

in Algonquin Township.[2] The 1991 assessment was changed to $3,809,020. In cases of quadrennial reassessment under the Illinois Revenue Act of 1939,[3] the local assessor must make a new assessment of real estate and must provide mailed notice of any "change" in assessment to the affected taxpayer.[4] The quadrennial assessment then becomes the "baseline" assessment to which any adjustments, such as equalization factors, are applied for each year of the quadrennial period.[5] The local assessment officials did not follow this statutory procedure when they assessed Petitioner's property in 1991. App. 2. Instead, the assessment officials adopted the 1990 "equalized" assessment of $3,809,020 as the 1991 quadrennial

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[2] Ill. Comp. Stat. Ann. ch. 35 para. 205/43 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/9-215 (Supp. 1995)).

[3] Effective January 1, 1994, the Property Tax Code replaced the Revenue Act of 1939, which had been amended many times over the years. However, these statutory revisions did not produce substantive differences in the notice provisions involved in this appeal. The Revenue Act of 1939 was in effect when the events described above took place; the Property Tax Code is presently in effect. Citations to both the prior act, the Revenue Act (Ill. Comp. Stat. Ann. ch. 35 para. 205 *et seq.* (1993)) and the Property Tax Code (Ill. Comp. Stat. Ann. ch. 35 para. 200 *et seq.* (Supp. 1995)) are provided throughout this Petition, and the relevant statutes are reprinted in the Appendix at App. 36-92.

[4] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)).

[5] For clarity, this Petition will refer to the quadrennial assessment as the "baseline" assessment, as compared to the "equalized" assessment. The equalized assessment is composed of the baseline assessment set in the quadrennial-assessment year *plus* any equalizing factors.

assessment or "baseline" assessment for the Property. App. 2. Although assessments for all property in the township were published in a local newspaper, no notice of the 1991 quadrennial assessment of $3,809,020 was mailed to Petitioner. App. 2. The Board of Review months later adopted a 1991 township equalizer for all property within Algonquin township, resulting in a 1991 equalized assessment for Petitioner's property of $4,031,470.[6] App. 2. Notice of the 1991 equalized assessment was mailed to Petitioner on June 2, 1992. App. 2-3. As of the date of mailing, the time to file a complaint at the Board of Review to contest the new 1991 unequalized or baseline assessment of $3,809,020 had already lapsed.[7]

II. PROCEDURAL BACKGROUND

Illinois law specifies a procedure for challenging property tax assessments. When a local assessment official changes a property assessment, notice of the change must be published *and* sent to the taxpayer by mail.[8] The

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[6] Petitioner's 1991 equalized assessment was equal to the 1990 assessment of $3,489,080 plus the 1990 equalizer, which added $319,940, plus the 1991 equalizer, which added another $222,450.

[7] Ill. Comp. Stat. Ann. ch. 35 para. 205/108 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-55 (Supp. 1995)).

[8] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)):

> "In every county with less than 3,000,000 inhabitants, in addition to the publication of the list of assessments in each year of a general assessment and of the list of property for which assessments have been added or changed, as provided above, a notice shall be mailed by the chief county assessment officer

mailed notice advises the taxpayer of the assessment as well as the name of the newspaper in which the assessment will be published and the date of publication.[9] The taxpayer then has 30 days from the date of publication to lodge a protest or assessment complaint with the local board of review, here the McHenry County Board of Review.[10] Decisions of local boards of review are subject to review by the Illinois Property Tax Appeal Board (the "PTAB").[11] Decisions of the PTAB are subject to judicial review under the Illinois Administrative Review Act.[12] However, in the event that a taxpayer fails to file a timely assessment challenge with the local board of review, his or her rights to review of the baseline assessment for that year are lost.[13]

> to each taxpayer whose assessment has been changed since the last preceding assessment, using the address as it appears on the assessor's records, except in the case of changes caused by a change in the county equalization factor by the Department or in the case of changes resulting from equalization by the supervisor of assessments under Section 9-210, during any year such change is made."

[9] *Id.*

[10] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)).

[11] Ill. Comp. Stat. Ann. ch. 35 para. 205/111.1 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-160 (Supp. 1995)).

[12] Ill. Comp. Stat. Ann. ch. 35 para. 205/138 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/8-40 (Supp. 1995)).

[13] Ill. Comp. Stat. Ann. ch. 35 para. 205/111.1 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-160 (Supp. 1995)) (requiring taxpayers to exhaust their administrative

In Petitioner's case, the assessment officials failed to mail notice of the 1991 baseline assessment. App. 2. No appeal to the McHenry County Board of Review was filed, because Petitioner was unaware that a new 1991 baseline assessment had been proposed. On June 2, 1992, the Board of Review mailed notice to the Petitioner that the 1991 baseline assessment on the property had been "changed" by application of a 1991 township equalizer. App. 2-3. Petitioner appealed the 1991 equalized assessment, in the manner specified by law, to the PTAB on June 26, 1992, well within 30 days of the June 2, 1992, mailed notice of equalized assessment. App. 3.

The PTAB held a hearing on the matter nearly two years later, on February 28, 1994. Petitioner submitted an appraisal by an expert appraiser, asserting that the value of the property did not exceed $7,650,000. App. 3. Petitioner requested an assessment of approximately $2,500,000. App. 3. Even though no complaint was filed at the Board of Review within 30 days of the publication of the 1991 baseline assessment, Petitioner argued it was entitled to challenge the 1991 assessment because it had not received mailed notice of the change in its assessment.[14] Community Consolidated School District #47 and Community High School District #155 ("School Districts") participated as intervenors.[15] App. 3.

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remedies at the Board of Review). *See also* Ill. Admin. Code tit. 86, § 1910.30(a) (1994); *Korzen v. Piper's Alley*, 342 N.E.2d 249, 251 (Ill. App. Ct. 1976) ("courts of this state have consistently adhered to the rule that a taxpayer must exhaust all administrative channels available to contest property assessments before being entitled to judicial relief").

[14] *See Marty v. Brown*, 338 N.E.2d 920 (Ill. App. Ct. 1975).

[15] Originally, counsel representing the School Districts intervened on behalf of Community Consolidated School District #47 and Community High School District #155.

On February 22, 1995, the PTAB found that the fair market value of Petitioner's property was $7,650,000 (properly assessed, this would result in the requested assessment of approximately $2,500,000).[16] App. 20. But the PTAB concluded that it could only grant relief to eliminate the increase of $222,450 that resulted from application of the 1991 township equalization factor. It could not reach the issue of the fairness of the initial 1991 quadrennial assessment of $3,809,020 or the substantial justice of the resulting tax, the PTAB reasoned, because Petitioner failed to file timely a complaint with the Board of Review within the specified time (30 days) after publication of the assessment in the local newspaper.[17] App.

However, Community Consolidated School District #47 has no interest in or right to receive taxes from Petitioner's property, and thus had no standing to intervene. Although Community Consolidated School District #26 did not seek nor obtain leave to intervene, it participated in the briefing of this matter on appeal.

[16] Thirty-three and 1/3 percent of the fair-market value of the property, as found by the PTAB: .33 x $7,650,000 = $2,549,745.

[17] Petitioner acknowledges that the assessment authorities caused the 1991 quadrennial assessment of Algonquin Township properties to be published in a local newspaper. By operation of law, the McHenry County Board of Review had the power to review the 1991 quadrennial assessment provided that the taxpayer lodged the proper complaint within 30 days of the publication date. Ill. Comp. Stat. Ann. ch. 35 para. 205/108(4) (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-55 (Supp. 1995)). Notice by publication, however, did not comply with the plain requirements of the Revenue Act of 1939. Section 103 of the Revenue Act also clearly mandates that notice by mail be sent to each taxpayer whose real property assessment "has been changed since the last preceding assessment." Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993)

33. The PTAB came to this conclusion based on its interpretation of Section 103 of the Revenue Act (now Section 12-30 of the Illinois Property Tax Code).[18] The PTAB concluded that Petitioner was not entitled to mailed notice of the 1991 baseline quadrennial assessment, thus accepting the argument that there was no "change" in assessment between the 1990 assessment of $3,489,080 and the 1991 assessment of $3,809,020. App. 30. Hence, Petitioner's rights were fixed based upon publication of the 1991 assessment in the newspaper. Accordingly, although Petitioner's property was assessed at more than one-third of its fair market value, the PTAB concluded that it could not remedy this wrong. App. 32-33.

On March 7, 1995, Petitioner filed for direct review in the Illinois Appellate Court, Second Judicial District, seeking reversal of that portion of the PTAB decision that rejected Petitioner's argument that it was entitled to notice by mail of the initial 1991 assessment. App. 1-2. Neither the School Districts nor the Board of Review cross-appealed on the issue of the value of Petitioner's property.

On appeal, Petitioner argued that the Revenue Act of 1939 and case law interpreting it required published notice of assessments generally, and mailed notice to the Petitioner because its real property assessment had "been changed since the last preceding assessment."[19] The only

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(current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)). No such notice of change in assessment was mailed which left Petitioner uninformed of the publication and caused Petitioner to fail to file a complaint within 30 days of publication.

[18] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)).

[19] *Id.*

mailed notice that Petitioner received was notice of the equalized assessment of $4,031,467, a figure which included the new 1991 quadrennial assessment (consisting of the 1990 baseline assessment plus the previous year's equalizing factors), plus the current year's (1991) equalization factor. Thus, Petitioner argued, the 1991 equalized assessment was void because of the county's failure to mail notice of the initial 1991 baseline assessment before the assessment became irrevocably fixed. The appellate court, without oral argument, affirmed the PTAB's decision that the assessment had not "changed" within the meaning or the statute so that Petitioner was not entitled to mailed notice.

Petitioner timely filed a petition for leave to appeal in the Illinois Supreme Court which was denied on June 5, 1996. App. 18.

REASONS FOR GRANTING THE PETITION

I. Due Process Under The Fourteenth Amendment Requires Notice, Reasonably Calculated To Apprise Parties That Their Rights Will Be Adjudicated, And A Meaningful Opportunity To Be Heard.

A. Notice Must Be Reasonably Calculated To Apprise Parties That Their Rights Will Be Adjudicated.

This case is about the power of local governments to tax ownership of property, as balanced with the right to due process guaranteed under the Fourteenth Amendment. It merits the attention of this Court because the decision below, left unchanged, will leave Illinois taxpayers with a property-tax appeal system that encourages

assessment officials to change property assessments without notice or a meaningful opportunity to be heard. Fundamental notions of fairness and due process contemplate a property tax system that requires notice be sent to a taxpayer whenever a change in assessment occurs *before* the change becomes irrevocably fixed. The decision below, in contrast, leaves Illinois taxpayers with a property-tax appeal system that is not plain, not speedy, not efficient, and, for taxpayers such as Petitioner, is no remedy at all.

The crux of this case lies in the interpretation of the phrase "assessment has been changed since the last preceding assessment", and the impact of that interpretation on Petitioner's (and Illinois taxpayers') due process rights. If the interpretation rendered below in this case is correct, then the Illinois assessment scheme runs clearly afoul of due process guarantees. When property rights are adjudicated, the Fourteenth Amendment promises property owners notice and a meaningful opportunity to be heard.[20] As the assessment of taxes is essentially judicial in nature,[21] taxpayers must be given a meaningful opportunity to protect their property rights.

In Petitioner's case, local assessment officials fixed irrevocably a property assessment/tax considerably higher than that specified by law, without providing notice designed to have a reasonable chance of informing the taxpayer that its rights were being adjudicated. On its

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[20] *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 798 (1983).

[21] *Central of Ga. Ry. Co. v. Wright*, 207 U.S. 127, 138 (1907) ("assessment of a tax is action judicial in nature, requiring for the legal exertion . . . such opportunity to appear and be heard as the circumstances of the case require").

face, and as interpreted by Illinois courts before the decision below, the Illinois property tax-appeal system provided Petitioner with a statutorily prescribed due process by which to appeal changes in its property tax assessment. But, as administered by local officials and permitted by the decision below, the only reviewable part of Petitioner's property assessment was the increase attributable to the 1991 equalizer. This unreasonable limitation was directly due to the fact that published notice of the change in assessment from 1990 to 1991 was not a form of notice reasonably calculated to notify the Petitioner that its right to review of the 1991 assessment was being adjudicated.

Understanding Petitioner's predicament requires some background in the Illinois property tax scheme. The general statutory scheme for taxing real estate in Illinois (excluding Cook County) is based on individual, *ad valorem* assessments of property at 33⅓ percent of fair-market value.[22] Fair-market value, which Township Assessors and Supervisors of Assessment are duty-bound to estimate, is reviewed every four years in what is known as the "quadrennial" or "general reassessment."[23] Once Assessors have determined estimates of fair-market value, the assessment is automatically set at exactly 33⅓ percent of that value. The baseline assessment for each property in the township is then certified to the local

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[22] Ill. Comp. Stat. Ann. ch. 35 para. 205/20, 43 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/9-145 (Supp. 1995)).

[23] Ill. Comp. Stat. Ann. ch. 35 para. 205/43 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/9-215 (Supp. 1995)).

county board of review and published in a local newspaper.[24] Taxpayers whose baseline assessments have "changed" since the last assessment are also entitled to mailed notice.[25] Taxpayers who want to challenge their baseline assessments have 30 days following publication to request a hearing before the board of review.[26] Further appeals from board of review decisions may be pursued either through the PTAB[27] or by filing a tax-objection complaint in circuit court.[28] Taxpayers who fail to exhaust their administrative remedies by failing to file timely appeals with the local board of review are precluded permanently from seeking assessment relief for that assessment year, either before the PTAB or in court.[29]

The baseline assessments, which are set anew by township officials every four years, become the foundation upon which two types of equalizing factors may be applied: township equalizers and county-wide equalizers. Supervisors of Assessments and County Boards of

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[24] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-10 (Supp. 1995)).

[25] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)).

[26] Ill. Comp. Stat. Ann. ch. 35 para. 205/108(4) (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-55 (Supp. 1995)).

[27] Ill. Comp. Stat. Ann. ch. 35 para. 205/111.1 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-160 (Supp. 1995)).

[28] Ill. Comp. Stat. Ann. ch. 35 para. 205/194 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/23-10, 23-15 (Supp. 1995)).

[29] Ill. Admin. Code tit. 86, § 1910.30(a) (1994); *see also Korzen*, 342 N.E.2d at 251.

Review may apply township equalizing factors designed to take into account assessment variances within the township, and the township equalizing factor is applied uniformly to each parcel in the township.[30] Taxpayers are notified by mail of the township equalizer and generally, as here, the factor results in a greater tax liability to the taxpayer. The assessment increase attributable to application of the township equalizer may be challenged at the PTAB.[31] However, at this stage of the process, even if the taxpayer persuades the PTAB that the equalized assessment is incorrect, the PTAB, as it has interpreted its jurisdiction, is empowered only to adjust that portion of the assessment produced by application of the township equalizer. App. 33. When the statutory notice procedures have been followed and the taxpayer has not challenged the baseline assessment first at the local board of review, the PTAB will not review the substantial justice of the baseline assessment. Therefore, seeking review of the baseline assessment before the local board of review is jurisdictional. Without it, the substantial justice of the baseline or initial assessment for that year is beyond review, forever.[32]

The Illinois Department of Revenue also has power to apply county-wide equalizers in order to adjust assessments within the entire county.[33] Taxpayers may appeal

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[30] Ill. Comp. Stat. Ann. ch. 35 para. 205/108 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-65 (Supp. 1995)).

[31] Ill. Comp. Stat. Ann. ch. 35 para. 205/111.1 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-160 (Supp. 1995)).

[32] Ill. Admin. Code tit. 86, § 1910.30(a) (1994); *see also Korzen*, 342 N.E.2d at 251.

[33] Ill. Comp. Stat. Ann. ch. 35 para. 205/146 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/17-5 (Supp. 1995)).

the county-wide equalizer in Illinois circuit courts, under the Illinois Administrative Review Act.[34]

The Illinois General Assembly, sensitive to the requirements of due process, has specified two types of notice to taxpayers in years of quadrennial reassessment: notice by publication[35] and notice by mail.[36] If there is no "change" in the baseline or initial assessment from one year to the next, then the taxpayer is not entitled to mailed notice; only publication of the township assessment lists in local newspapers is required. In either case, taxpayers have 30 days following publication to appeal their assessments before the board of review. If no appeal

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[34] Ill. Comp. Stat. Ann. ch. 35 para. 205/138 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/8-40 (Supp. 1995)).

[35] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-10 (Supp. 1995)) states:

> As soon as the chief county assessment officer has completed the assessment in the county or in the assessment district, he or she shall, in each year of a general [quadrennial] assessment, publish for the county or assessment district a complete list of the assessment, by townships if so organized.

[36] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)) (emphasis added), states in pertinent part:

> [I]n addition to the publication of the list of assessments in each year of a general assessment . . . *a notice shall be mailed* by the chief county assessment officer to *each taxpayer whose assessment has been changed since the last preceding assessment*, using the address as it appears on the assessor's records, except in the case of changes caused by a change in the county equalization factor by the department, during any year such change is made.

is filed within that limited 30-day window, the baseline assessment is final.

In Petitioner's case, the PTAB concluded that, even though it is empowered to review assessment challenges de novo, the baseline assessment was not properly challenged at the Board of Review, so that the PTAB could only review the impact of the equalization factor on the baseline assessment, not the baseline assessment itself. App. 33. This conclusion is bottomed on the supposition that Petitioner's baseline assessment did not "change" from 1990 to 1991 within the meaning of the statute, when in fact it was increased from $3,489,080 to $3,809,020.

Fundamental concepts of due process, common sense, as well as the legislative history of the relevant Illinois statutes and Illinois case law all point to the opposite conclusion. Petitioner's assessment changed between 1990 and 1991. As the Illinois cases have held, it is "mere casuistry" to argue that no change in an assessment has occurred when an *equalized assessment* in one year becomes an *assessment* in the next year. *Aurand v. Anderson*, 413 N.E.2d 161, 166 (Ill. App. Ct. 1980) (emphasis added). Therefore, Petitioner was entitled to mailed notice of the 1991 baseline assessment.

As this Court has written, "[m]any controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950). While noting that personal service is not always indispensable to due process, this Court wrote

"[a]n elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Id.* at 314 (citations omitted). "[W]hen notice is a person's due, process which is a mere gesture is not due process." *Id.* at 315.

Township officials published notice of Petitioner's new 1991 baseline assessment, incorporating the prior 1990 baseline assessment plus equalization factors, in the local newspaper. The 30-day window in which Petitioner could appeal to the Board of Review had long since closed by the time officials mailed notice of Petitioner's 1991, equalized assessment (which also included the previous year's equalization factors). Notice by publication was not a reliable means of informing Petitioner that its rights were to be adjudicated. "Chance alone brings to the attention of even a local resident an advertisement in small type inserted in the back pages of a newspaper. . . . " *Id.* Notice by publication in this case fell far short of the constitutional standard of "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Id.* at 314 (citations omitted).

Important property rights are at stake when local officials assess real estate for the purpose of setting taxes. Recognizing this, the Illinois General Assembly imposed a two-part notice requirement on local officials, requiring notice by publication generally, and personal service

where assessments have changed.[37] In the past, the Illinois Supreme Court has mandated that such notice requirements are to be strictly construed in order to protect taxpayers' rights in situations identical to Petitioner's.[38] Now, under the interpretation of the statute fostered below, these protections have been abandoned.

B. DUE PROCESS UNDER THE FOURTEENTH AMENDMENT REQUIRES A MEANINGFUL OPPORTUNITY TO BE HEARD.

By the time Petitioner received mailed notice of the change in its property tax assessment due to addition of the 1991 equalization factor, the 30-day period in which to appeal to the Board of Review had expired. App. 32-33. Petitioner therefore appealed to the PTAB to challenge the substantial justice of its 1991 assessment. Based on its finding of the fair market value of Petitioner's property, the PTAB ruled that the assessment of Petitioner's property was excessive and illegal. Significantly, no one has challenged the fact that Petitioner's property was improperly over-assessed. Yet the PTAB concluded that it was not authorized to review anything but the amounts by which the *current* township and county equalizers increased the baseline assessment. Thus, Petitioner's major claim was already forever precluded from any meaningful review. The hearing before the PTAB may have been an "opportunity to be heard," but it was not

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[37] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)).

[38] *Andrews v. Foxworthy*, 373 N.E.2d 1332, 1336 (Ill. 1978); *Aurand v. Anderson*, 413 N.E.2d 161 (Ill. App. Ct. 1980); *Anderson v. Apostalakis*, 462 N.E.2d 1006 (Ill. App. Ct. 1984).

"meaningful" in relation to the most important portion of the over-assessment. Under such a system, taxpayers become the victims of "stairstep assessment increases," exactly the type of unfair assessment increases that were condemned in *Anderson v. Apostalakis*, 462 N.E.2d 1006, 1009 (Ill. App. Ct. 1984). By the time Petitioner received mailed notice of the equalized assessment, it was too late to challenge the validity of baseline assessment no matter how much it exceeded the statutorily mandated 33⅓ percent of fair market value.

When a state or local government properly exercises its powers of taxation by means of a constitutionally valid process, this Court has held that it does not violate the Fourteenth Amendment even if the resulting tax is oppressive. *Stewart Dry Goods Co. v. Lewis*, 294 U.S. 550, 577-79 (1935). When the taxpayer receives appropriate notice and opportunity to be heard before a tax becomes final, due process is respected. "[A] taxpayer is not deprived of his property without due process of law if he has an opportunity to question the validity of the tax at some stage of the proceeding." *Abrams v. Feaver*, 685 P.2d 378 (Mont. 1984). *See also Central of Ga. Ry. v. Wright*, 207 U.S. 127 (1907); *Chicago Sheraton Corp. v. Zaban*, 373 N.E.2d 1318 (Ill. 1978). But opportunity to be heard is a minimum constitutional requirement. "The fundamental requisite of due process of law is the opportunity to be heard," *Grannis v. Ordean*, 234 U.S. 385, 394 (1913), and as this Court wrote in 1908:

> In the assessment, apportionment, and collection of taxes upon property within their jurisdiction, the Constitution of the United States imposes few restrictions upon the states. . . . But where the legislature of a state, instead of fixing the tax itself, commits to some subordinate body

> the duty to determine whether, in what amount, and upon whom it shall be levied, and of making its assessment and apportionment, due process of law requires that, at some stage of the proceedings, before the tax becomes irrevocably fixed, the taxpayer shall have an opportunity to be heard, of which he must have notice. . . . "

Londoner v. Denver, 210 U.S. 373, 385-86 (1908). An opportunity to be heard, if it is to be more than just a meaningless exercise, must offer an opportunity to affect the outcome of the matter. In *Rosewell v. LaSalle Nat'l Bank*, 450 U.S. 503 (1981), this Court emphasized the need for "a 'full hearing and judicial determination' at which she [the taxpayer] may raise any and all constitutional objections to the tax." *Id.* at 514 (citation omitted). Anything less than such a hearing, in which constitutional violations may be not only raised but also remedied, is mere form.

Petitioner in this case was never given a meaningful opportunity to affect its assessment which was ultimately determined to be illegal. Instead, by the time any notice was received, Petitioner's opportunity to be heard was limited to the impact of the 1991 township equalizer. Since Petitioner was precluded from a meaningful review of the improper assessment affixed by the local assessment officials, Petitioner was deprived of its constitutionally guaranteed right to challenge the substantial justice of the assessment in violation of the due process guarantee.

C. THIS IS NOT A MATTER OF INTERPRETATION OF STATE LAW BEST LEFT TO STATE COURTS, BUT A FUNDAMENTAL ISSUE OF DUE PROCESS, WHICH THE ILLINOIS SYSTEM DENIES.

The court below construed the language of Section 103 of the Revenue Act[39] to demonstrate a legislative intent that the phrase "changed since the last preceding assessment" should refer to the final assessment after equalization by a board of review. App. 14-15. Such a conclusion is directly contrary to the legislative history of the acts in question, as well as Illinois case law.

It is helpful to understand the sequence of decisions and legislative actions that led to the relevant revisions in the Illinois property tax notice requirements. In 1984, an Illinois appeals court decided *Anderson v. Apostalakis*, 462 N.E.2d 1006 (Ill. App. Ct. 1984), another case in which a township equalized assessment in one year was adopted as the baseline assessment for the following year. The appellate court held that this was a change in assessment, triggering the duty to mail notice to the taxpayer because otherwise, taxpayers would not realize the cumulative effects of published notice: "it was not clear from [the relevant year's published notices] that the taxpayers' assessed valuations were being increased each year during a quadrennial period by the application of the previous year's equalization factors *and* the current tax year's equalization factors." *Id.* at 1009. The court held that "the Revenue Act of 1939 never specifically states

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[39] Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)).

that the most recent *equalized* assessment becomes 'the last preceding assessment' to which the subsequent equalization factor is applied." *Id.* The court below, however, in deciding Petitioner's case, departed from this precedent and concluded that *Apostalakis* was no longer controlling because the relevant statute had been revised. App. 14-15.

Two amendments to Section 103 of the Revenue Act are involved here: Illinois Public Act 83-1015 (effective Jan. 1, 1984) and Illinois Public Act 83-1239 (effective Aug. 1, 1984). App. 94-105. Public Act 83-1015 expanded the notice requirements of Illinois property-tax law to include notice that would alert taxpayers in every case of assessment or equalization. However, local governments complained to the legislature that mailing notice in every case, rather than just cases in which an assessment actually changed, would be prohibitively costly. Thus Public Act 83-1239[40] was passed a few months later. The latter act established a duty to notify taxpayers whose assessments had changed since the last preceding assessment, reinstating the language construed in *Apostalakis*, the language in effect here. The legislative history shows that the legislature was aware of *Apostalakis* and was affirming it as good law. Representative Hastert, co-sponsor of the bill, stated:

> [A]ny notification process or publication process that was the law prior to 1983 is still in the law. In addition, any time a taxpayer's assessment is changed because of the rollover in multipliers or whatever, change in the county board, . . . board

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[40] The relevant language of P.A. 83-1239 was adopted in Ill. Comp. Stat. Ann. ch. 35 para. 205/103 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/12-30 (Supp. 1995)).

> of review process, there is notice given. . . . All those provisions stay in the law.[41]

Representative Pierce questioned Representative Hastert:

> *Rep. Pierce*: Is this the bill that says if my assessment seems alright to me, then a local multiplier is put on it, and I receive no notice of that, then the next . . . then the following year, my assessment is the same as that local multiplier which was placed on, I received no notice of a change in assessment?
>
> *Rep. Hastert*: Representative, this is not the bill that says that. . . .
>
> *Rep. Pierce*: So in other words, you . . . are not knocking out that notice.
>
> *Rep. Hastert*: That's correct.
>
> *Rep. Pierce*: Are you knocking out the notice where a state multiplier is put on and then the following year, the assessment is the same as the state multiplier? . . .
>
> *Rep. Hastert*: That . . . that would just be there also. We're not make . . . We're not knocking out any written notice at all. . . . [42]

It is clear that the Illinois General Assembly was concerned with protecting taxpayers' rights in cases factually identical to Petitioner's. Yet the court below construed the "plain meaning" of the statute to be that "changed" from the "last preceding assessment" means change from the last preceding equalized assessment, not the baseline assessment. App. 12. The correct interpretation, in the

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[41] Ill. H. Rep. No. 2832, 83rd Gen. Assembly, 123rd Leg. Day, Transcription Debate, May 23, 1984, at 260 (1984) (remarks of Rep. Hastert). App. 106.

[42] *Id.* at 262 (remarks of Reps. Pierce and Hastert). App. 107-08.

light of the legislative history and previous Illinois case law construing the identical statutory language, is that the Illinois General Assembly intended the baseline assessments in each year to be the basis of determining if there is a "change." So interpreted, mailed notice is required whenever an assessment is changed from the last preceding assessment. But now, since the Petitioner, and others similarly situated, failed to receive mailed notice and failed to lodge an assessment challenge with the local board of review within 30 days of the publication date of the new assessment, a fair review of the initial assessment can never be had. Based on this strained interpretation of what constitutes a change in assessment, Illinois taxpayers have effectively been locked out of the Illinois courts, and no meaningful judicial remedy to an over-assessment of real property is available in Illinois.

If the "plain meaning" of the notice provision is what the lower court said it is, then the law itself is unconstitutional, because it allows taxpayers' liability to become irrevocably fixed without notice reasonably designed to apprise taxpayers that their rights are being adjudicated, and without a meaningful opportunity to be heard. The result is a violation of the mandate of this Court, which has clearly stated that where important property rights are concerned, "[n]otice by mail or other means as certain to ensure actual notice is a minimum constitutional precondition to a proceeding which will adversely affect the liberty or property interests of *any* party. . . . " *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 800 (1983). Petitioner's property rights were at stake in this case, and the shallow formality of published notice of Petitioner's new

baseline assessment was a "mere gesture" wholly insufficient to allow Petitioner to take steps to safeguard its rights. *Mullane*, 339 U.S. at 315.

II. LACK OF A TRULY PLAIN, SPEEDY, AND EFFICIENT REMEDY IN ILLINOIS COURTS WILL FORCE TAXPAYERS TO ABANDON STATE-COURT REMEDIES AND SEEK RELIEF IN FEDERAL COURT.

A. ILLINOIS' PROPERTY-TAX APPEAL PROCESS, THOUGH APPEARING "PLAIN, SPEEDY, AND EFFICIENT" PROCEDURALLY, LEAVES TAXPAYERS WITH NO REMEDY.

As this Court pointed out in *Rosewell v. LaSalle Nat'l Bank*, 450 U.S. 503, 516 (1981), Webster's dictionary defines "remedy" as "the legal means to recover a right . . . or obtain redress for . . . a wrong." Under the decision below, Illinois taxpayers have no remedy to the over-taxation created by stairstep increases in property tax assessments in violation of their due process rights.

The Illinois appellate court itself stated that the relevant Act "gives a board of review the authority to adjust the assessments for incorrectly assessed property and to equalize assessments where such assessments are not truly assessed at 33⅓% of fair cash value." App. 15. If this is the limit of the Board of Review's authority, then it exceeded its authority in significantly over-assessing Petitioner's property. Indeed, on appeal, Respondents never even bothered to challenge the PTAB's conclusion that Petitioner's property was illegally over-assessed. Deficiencies in local officials' notice procedure – i.e., failure to mail notice when incorporating the prior year's equalizing factors into the 1991 quadrennial baseline

assessment of Petitioner's property – led Petitioner to miss the 30-day window in which to appeal this increase in its baseline assessment before the Board of Review.

The PTAB, in turn, concluded that the property was over-assessed but that they were powerless to remedy this wrong. The court below upheld this conclusion, pointing to the portion of the statute that says "[a]ll appeals shall be considered de novo. However, where no complaint has been made to the board of review of the county where the property is located *and the appeal is based solely on the effect of an equalizing factor* assigned to all property or to a class of property by the board of review, the [Appeal Board] may not grant a reduction in assessment greater than the amount that was added as a result of the equalizing factor."[43] App. 8 (emphasis added).

This analysis has two flaws. First, the Act empowers a board of review to hear challenges to quadrennial assessments only within a 30-day period after providing notice.[44] Petitioner has been penalized for not exhausting its administrative remedies and not making an appeal to the Board of Review. But what was the cause? Petitioner received no adequate notice of the change in its assessment until after the 30-day window had closed. After the 30-day period, what would be the purpose of appeal to the Board of Review? Under the Act, the Board of Review no longer had jurisdiction to hear any challenge at all.

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[43] Ill. Comp. Stat. Ann. ch. 35 para. 205/111.2 (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-180 (Supp. 1995)).

[44] Ill. Comp. Stat. Ann. ch. 35 para. 205/108(4) (1993) (current version at Ill. Comp. Stat. Ann. ch. 35 para. 200/16-55 (Supp. 1995)).

Second, this language of restriction limiting the PTAB's authority where no complaint has been made to the board of review and the appeal is based solely on the effect of an equalizing factor applies where the appeal is based solely on the effect of an equalizing factor assigned to all property or to a class of property by the board of review. Petitioner in this case was not appealing the effect of an equalizing factor. Petitioner was appealing the failure of local assessment officials to provide notice and their failure to conduct a proper quadrennial reassessment of its property in order to bring the assessment within the target range of 33⅓ percent of fair market value as required by law. It is true that a portion of this over-assessment of Petitioner's property was due to incorporation of the previous year's equalizing factors into a new baseline assessment, but the source of the overassessment was secondary to the main issue. The main issue was that Petitioner's baseline property assessment was changed, and this change resulted in over-assessment and over-taxation, without notice to the taxpayer, contrary to Illinois law. This issue should have been reviewed *de novo,* as stated in the statute.[45]

Thus the PTAB and the courts of Illinois have trapped Petitioner and similarly situated taxpayers in a classic Catch-22. Taxpayers whose property is subjected to stairstep assessment increases receive no notice of their bumped-up baseline assessments until officials mail notice of their final, equalized assessments. The baseline

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[45] Indeed, in *Anest v. Lake County,* 497 N.E.2d 1327 (Ill. App. Ct. 1986) the court recognized lack of mailed notice in a factually similar situation as justifying an exception to the exhaustion requirement, excusing failure to appeal to the board of review.

assessments can only be appealed to the board of review. But by then the board of review no longer has jurisdiction to hear an assessment appeal. The PTAB concludes it has no authority to look at anything other than equalizing factors, and the Illinois courts wash their hands of the entire process. So construed, the Illinois tax appeal process leaves Petitioner and similarly situated taxpayers with no remedy at all.

B. BECAUSE THE TAX INJUNCTION ACT HAS BEEN HELD TO PERMIT CLAIMS FOR RETROACTIVE RELIEF CHALLENGING TAXES WHERE THERE IS NO PLAIN, SPEEDY, AND EFFICIENT STATE REMEDY, THE CONTINUING VIOLATION OF DUE-PROCESS RIGHTS WILL LEAD ILLINOIS TAXPAYERS TO SEEK RELIEF IN FEDERAL COURT, THUS BURDENING THE FEDERAL SYSTEM.

Federal courts, including this Court, traditionally have been reluctant to interfere with state-government tax systems;[46] but, federal court jurisdiction is appropriate where a state property tax scheme, either because of its design or application,[47] violates constitutionally guaranteed rights and fails to provide "remedies that are plain, adequate, and complete," *Fair Assessment in Real Estate Ass'n, Inc. v. McNary*, 454 U.S. 100, 116 (1981) (holding that the principle of comity barred §1983 actions

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[46] *See, e.g., Wisconsin v. J.C. Penney*, 311 U.S. 435, 445 (1930) (referring to the "limited nature of this court when state taxes come before it").

[47] Tax laws can be constitutionally valid structurally but invalid as applied. *See, e.g., Commonwealth v. Columbia Gas & Elec. Corp.*, 8 A.2d 404, 412 (Pa. 1939).

against state tax systems in federal courts and taxpayers must seek remedies in state courts "provided those remedies are plain, adequate, and complete"). Federal-court jurisdiction in such cases is permitted by the Tax Injunction Act, 28 U.S.C. § 1341, which establishes federal-court jurisdiction where state taxation schemes fail to provide review or appeal procedures that are "plain, speedy, and efficient."[48]

The decision below allows Illinois taxpayers to become the victims of stairstep property tax increases, a kind of creeping tax hike imposed by local officials who know full well that published notices in tiny type in the back of local newspapers will escape the attention of the vast majority of property owners. By the time officials mail taxpayers notice of any subsequent increase due to equalization, the game is over: the baseline assessment is irrevocably fixed. The Illinois appellate court has refused to condemn such behavior on the part of local tax officials, thus eliminating any possibility for a meaningful review in Illinois courts. Given these circumstances, one need not debate whether the Illinois remedy is plain, speedy or efficient because the result of this case is that there is no remedy. The only venue left in which taxpayers may find a true remedy is federal court. Thus the Illinois courts' refusal to enforce taxpayers' rights to due process will further burden the federal court system by sending these taxpayers into federal court, seeking justification of their constitutionally guaranteed right to

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[48] 28 U.S.C. §1341 (1994) states: "The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under the State law where a plain, speedy and efficient remedy may be had in the courts of such State."

receive notice reasonably calculated to alert them when their rights are being adjudicated, as well as a meaningful opportunity to be heard before – not after – their tax liabilities are irrevocably fixed.

CONCLUSION

For the foregoing reasons, Petitioner Cotter & Company respectfully requests that this Court grant its Petition for a Writ of Certiorari.

Respectfully submitted,

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COTTER AND COMPANY,
Petitioner-Appellant,

v.

The PROPERTY TAX APPEAL BOARD et al.,
Respondents-Appellees (Community Consolidated School District No. 26 et al.,
Intervenors-Appellees).

No. 2-95-0313.

Appellate Court of Illinois,
Second District.

Dec. 29, 1995.

Rehearing Denied Feb. 29, 1996.

Thomas J. McNulty, Patrick J. McNerney, Keck, Mahin & Cate, Chicago, for Cotter & Company.

James E. Ryan, Attorney General, State of Illinois, Barbara E. Pitts, Assistant Attorney General, Barbara A. Preiner, Solicitor General, Chicago, for Illinois Property Tax Appeal Board.

Anthony M. Peccarelli, DuPage County State's Attorney, Wheaton, David N. Stone, McHenry, for McHenry County Board Of Review.

Christopher G. Guldberg, Rooks, Pitts & Poust, Chicago, for Community High School Dist. 155.

Justice HUTCHINSON delivered the opinion of the court:

Petitioner, Cotter and Company, appeals from a decision of the Illinois Property Tax Appeal Board (Appeal

Board) which held that the correct assessment of petitioner's real estate for the 1991 tax year was $3,809,020. The Appeal Board accepted petitioner's evidence, which would have resulted in an assessment of $2,408,985. However, the Appeal Board held that, because petitioner failed to file a complaint before the McHenry County Board of Review (Board of Review) before appealing to the Appeal Board, it was limited to granting relief not greater than the amount that was added as the result of the Board of Review's application of the 1991 equalization factor. On direct appeal to this court, petitioner argues that the assessment is void because the county supervisor of assessments failed to mail petitioner notice of the initial 1991 assessment. We affirm.

Petitioner's property is located at 201-03 Jandus Road in Cary. It consists of a 588,201-square-foot industrial building which is situated on approximately 30.7 acres. For the 1990 tax year, the Algonquin Township assessor (Assessor) certified an assessment of $3,489,080. The Board of Review applied a 1990 township equalization factor which resulted in a final assessment of $3,809,020.

The 1991 tax year was a year of a general assessment. Therefore, the Assessor conducted a quadrennial reassessment of all properties in the township. The Assessor certified an assessment of $3,809,020 for petitioner's property. The supervisor of assessments never mailed petitioner a notice of the 1991 assessment. However, the Assessor did publish notice of the 1991 assessment. The Board of Review certified a 1991 township multiplier. It applied this multiplier to petitioner's property and arrived at a final assessment of $4,031,467. The Board of

Review published notice of its final decision and mailed notice of its final decision to petitioner.

Petitioner appealed the Board of Review's decision to the Appeal Board. Petitioner submitted its own written appraisal in which the appraiser concludes that the fair market value of the property was $7,650,000. Petitioner asserted that a proper assessment based on this appraisal was $2,408,985 (approximately one-third of $7,650,000).

Community High School District No. 155 and McHenry County Consolidated School District No. 26 (School Districts) intervened in the proceedings before the Appeal Board. They claimed that, because petitioner failed to file a complaint before the Board of Review, the Appeal Board's jurisdiction was limited to granting relief no greater than the amount that the Board of Review increased the assessment by applying the 1991 township multiplier (*i.e.*, reducing the assessment from $4,031,467 to $3,809,020).

At the hearing before the Appeal Board, petitioner argued for the first time that the Assessor's 1991 assessment was void because the supervisor of assessments never mailed petitioner a notice of the assessment. Petitioner's argument was based on section 103 of the Revenue Act of 1939 (Act), which requires the supervisor of assessments to mail notice to each taxpayer "as to whose real property the assessment has been changed since the last preceding assessment." (35 ILCS 205/103 (West 1992).) The School Districts objected and requested that petitioner be barred from raising this contention. The hearing officer allowed petitioner 30 days to submit a brief in support of its contention regarding notice. The

hearing officer then heard petitioner's evidence regarding the fair cash value of its property.

Finding that petitioner's 1991 preequalized assessment had not changed since the last preceding assessment in 1990, the Appeal Board concluded that petitioner was not entitled to mailed notice. The Appeal Board also found that, in any event, petitioner received adequate notice via the published notice and the tax bill that the Board of Review sent petitioner.

The Appeal Board then stated that it agreed with petitioner's evidence of the property's fair cash value and concluded that the assessment certified by the Board of Review was excessive. However, it concluded that, because petitioner failed to file a complaint before the Board of Review, petitioner was entitled to a reduction only in an amount equal to the increase that resulted from the Board of Review's application of the 1991 township equalization factor. Therefore, the Appeal Board reduced petitioner's assessment from $4,031,467 to $3,809,020. Petitioner timely appealed to this court pursuant to section 111.4 of the Act (35 ILCS 205/111.4 (West 1992)).

The intervening School Districts argue that the Appeal Board should have dismissed petitioner's appeal and that petitioner is now barred from raising the notice argument in this appeal. They claim this is so because petitioner did not raise the notice argument until the hearing before the Appeal Board was about to begin.

Section 111.1 of the Act states that the party appealing to the Appeal Board "shall file a petition * * * setting forth specifically the facts upon which he bases his objection to the decision of the board of review, together with

a statement of the contentions of law which he desires to raise, and the relief he requests." (35 ILCS 205/111.1 (West 1992).) The Appeal Board's rule regarding the filing of the petition contains similar language. (86 Ill.Adm.Code § 1910.30(e) (1991).) The rule also provides:

> "If contentions of law are raised, the contesting party shall submit a brief in support of his position with the petition or within 30 days thereafter. Extensions of time shall be granted in accordance with subsection (d) of this Section. Failure to do so shall result in dismissal of the appeal." 86 Ill.Adm.Code § 1910.30(e) (1991).

The Appeal Board allowed petitioner to file a brief after the hearing and addressed petitioner's legal contentions regarding notice even though petitioner failed to file with its petition either a brief or a proper request for an extension of time. The Appeal Board concluded that the hearing officer had "full authority to * * * admit or exclude testimony or other evidence into the record." 86 Ill.Adm.Code § 1910.67(h)(1)(B) (1991).

The Appeal Board also relied on section 1910.67(k) of its rules, which provides:

> "In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless such evidence has been submitted to the [Appeal Board] prior to the hearing * * * or unless the filing requirement is specifically waived by the Board, or unless the submission of the written or documentary evidence is specifically ordered by the Board or by a Hearing Officer." 86 Ill.Adm.Code § 1910.67(k) (1991).

The Appeal Board apparently found that it had the discretion to address petitioner's legal contentions and that petitioner's failure to follow the procedure prescribed in section 1910.30(e) of the rules did not limit the Appeal Board's jurisdiction to hear the appeal. "Although an agency's interpretation is not binding on the court, the court will give great weight to an agency's construction and application of its own regulation unless it is clearly erroneous, arbitrary, or unreasonable." *LaBelle v. State Employees Retirement System* (1994), 265 Ill.App.3d 733, 735-36, 202 Ill.Dec. 766, 638 N.E.2d 412.

The Appeal Board could reasonably conclude that, although its language is mandatory, the rule providing for the dismissal of the appeal where the petitioner fails to follow the procedure for advancing legal contentions is a rule of administrative convenience and not a rule limiting the Appeal Board's jurisdiction. Under such an interpretation, the Appeal Board would have the discretion to address legal contentions even though petitioner failed to follow the correct procedure for advancing those contentions. Such an interpretation is supported by section 1910.67(h)(1)(E), which states that the Appeal Board may "[r]equire the submission of briefs on issues of law raised during the hearing within 60 days of the termination of the hearing." (86 Ill.Adm.Code § 1910.67(h)(1)(E) (1991).) Because we cannot say that this interpretation is clearly erroneous, arbitrary, or unreasonable, we reject the School Districts' argument.

A discussion of the property tax assessment procedure is necessary before turning to the parties' remaining contentions. The 1991 tax year was a general assessment year, which occurs once every four years. (35

ILCS 205/43 (West 1992).) Section 43 of the Act further provides:

> "On or before June 1 in each general assessment year * * * the assessor in person or by his deputy shall actually view and determine as near as practicable the value of each tract or lot of land * * * and assess the same at 33 1/3 % of its fair cash value, * * * setting down the sum in the proper column in the books furnished him." (35 ILCS 205/43 (West 1992).)

In the intervening years, the assessor "shall list and assess all real property which shall become taxable." 35 ILCS 205/44 (West 1992).

After making their assessments, the township assessors return the assessment books to the supervisor of assessments. (35 ILCS 205/94 (West 1992).) The supervisor of assessments has the authority to make changes in these assessments. (35 ILCS 205/95 (West 1992).) The supervisor of assessments also has the power to act as an equalizing authority between townships or assessment districts in the county. This process involves formulating a multiplier for each township. This multiplier determines the amount which must be added to or subtracted from the aggregate assessments in each township so that each property is actually assessed at $33^{1}/_{3}\%$ of its fair cash value. See 35 ILCS 205/95a (West 1992).

When this procedure is completed, the supervisor of assessments must turn the assessment books over to the Board of Review. (35 ILCS 205/100 (West 1992).) The Board of Review has the authority either to increase or reduce the entire assessment of real property or to act as an equalizing authority and adjust the assessments by

applying its own multiplier. (35 ILCS 205/108(5), 108a (West 1992).)

With this background in mind, we now determine whether the Appeal Board properly concluded that the relief it could provide to petitioner was limited to the amount the Board of Review increased the assessment by applying the 1991 equalization factor. Section 108, which addresses the powers and duties of the Board of Review, states that "[o]n complaint in writing that any property described in such complaint is incorrectly assessed, the board shall review the assessment, and correct it, as shall appear to be just." (35 ILCS 205/108(4) (West 1992).) Section 111.2, which addresses appeals to the Appeal Board, states:

> "All appeals shall be considered de novo. However, where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalizing factor assigned to all property or to a class of property by the board of review, the [Appeal Board] may not grant a reduction in assessment greater than the amount that was added as the result of the equalizing factor." 35 ILCS 205/111.2 (West 1992).

Our supreme court has summarized the procedures available to those aggrieved by the assessment of their property:

> "In counties other than Cook, the taxpayer must first present his complaint to the county board of review. [Citations.] The taxpayer may then select one of two mutually exclusive [citation] routes of challenging the board's decision. First, he may appeal to the Property Tax Appeal

Board, whose decision is further reviewable in the courts under the Administrative Review Law [citation]. * * * In the alternative, the taxpayer can pay his taxes under protest and file objections to the collector's application for judgment in the circuit court." *Schlenz v. Castle* (1986), 115 Ill.2d 135, 142, 104 Ill.Dec. 684, 503 N.E.2d 241.

Here, the Board of Review mailed petitioner notice of the final assessment. Instead of filing a complaint with the Board of Review, petitioner appealed to the Appeal Board. Petitioner took issue with the initial valuation of its property and presented evidence of the property's value without first presenting it to the Board of Review. We conclude that the Appeal Board properly found that this issue was not properly before it and that petitioner's appeal should be limited to the Board of Review's application of the equalization factor. Our supreme court stated long ago:

" '[I]t is the policy of our law that the whole matter of the valuation of property for taxation shall be committed to the control of the assessor, the board of review and the board of supervisors of the respective counties, and that a party aggrieved by an excessive valuation * * * should apply to the board of review for a correction of the assessment.' " *People ex rel. Nordlund v. Lans* (1964), 31 Ill.2d 477, 480, 202 N.E.2d 543, quoting *Sanitary District of Chicago v. Young* (1918), 285 Ill. 351, 368, 120 N.E. 818.

The Act provides for three instances in which a taxpayer may appeal an assessment directly to the Appeal

Board. We have already discussed the first situation provided for in section 111.2. A direct appeal is also available where the Appeal Board renders a decision lowering an assessment after the adjournment of the session of the Board of Review at which assessments for the subsequent year were being considered. (35 ILCS 205/111.4 (West 1992).) The third situation is where the Appeal Board renders a decision lowering an assessment after the deadline for filing complaints with the Board of Review for the subsequent year has passed. (35 ILCS 205/111.4 (West 1992).) The situation presented here falls within only the first provision for a direct appeal to the Appeal Board. We note that, if the Appeal Board had not treated the appeal before it as being based solely on the effect of the equalizing factor, then the Appeal Board would have been without the authority to grant petitioner any relief. Therefore, the Appeal Board correctly determined that it could grant relief only in the amount added as a result of the equalization factor.

Petitioner attempts to overcome this problem by arguing that the initial 1991 assessment was void because the supervisor of assessments failed to mail petitioner a notice of the assessment. According to petitioner, if the initial assessment was void, then the Appeal Board was free to enter an assessment based on petitioner's evidence of the property's fair cash value.

Section 103 contains the notice provisions at issue here. In general assessment years, the supervisor of assessments must "publish for such county * * * a full and complete list of the assessment of real property." (35 ILCS

205/103 (West 1992).) In addition to providing for notice by publication, section 103 states:

> "[A] notice shall be mailed by the county assessor or supervisor of assessments, as the case may be, to each taxpayer * * * *as to whose real property the assessment has been changed since the last preceding assessment* except in the case of changes caused by a change in the county equalization factor by the Department [of Revenue], during any year such change is made. Such notice may, but need not be, sent by a township assessor." (Emphasis added.) 35 ILCS 205/103 (West 1992).

Petitioner was entitled to a mailed notice from the supervisor of assessments only if there was a change from the last preceding assessment. The Appeal Board concluded that there was no change.

> "Courts generally accord deference to the statutory interpretations of an agency charged with the statute's administration. [Citations.] Thus, while we exercise an independent review of the PTAB's conclusions of law [citation], we may look to its interpretation of its own enabling statute as an informed source for discovering legislative intent." *La Salle Partners, Inc. v. Illinois Property Tax Appeal Board* (1995), 269 Ill.App.3d 621, 628, 207 Ill.Dec. 101, 646 N.E.2d 935.

In 1990, the initial assessment by the Assessor was $3,489,080. The Board of Review applied a 1990 township equalization factor which resulted in an aggregate assessment of $3,809,020. In 1991, the Assessor certified an assessment of $3,809,020.

Petitioner claims that there was a change in assessment because the Assessor's initial 1990 assessment is different from the Assessor's initial 1991 assessment. We disagree. Section 103 requires that the mailed notice "contain a brief explanation of the relationship between the assessment and the tax bill (including an explanation of the equalization factors) and an explanation that the assessment stated for the preceding year is after equalization by the board of review in the preceding year." (35 ILCS 205/103 (West 1992).) "The fundamental principle of statutory construction is that courts are to give effect to the intent of the legislature. [Citations.] The first step in determining legislative intent is to look to the plain meaning of the statutory language." *La Salle Partners*, 269 Ill.App.3d at 625, 207 Ill.Dec. 101, 646 N.E.2d 935.

Section 103's statement that the assessment for the preceding year is the assessment "after equalization by the board of review in the preceding year" is entirely consistent with the plain meaning of "last preceding assessment." To hold that the last preceding assessment here was the Assessor's initial 1990 assessment before equalization by the Board of Review would unduly strain the plain meaning of the statutory language. Here, the 1990 assessment after equalization by the Board of Review was the same as the Assessor's 1991 assessment. Therefore, there was no change from the preceding year's assessment.

The cases upon which petitioner relies are distinguishable. In *In re Application of Aurand* (1980), 90 Ill.App.3d 560, 45 Ill.Dec. 828, 413 N.E.2d 161, the supervisor of assessments applied a 1976 multiplier and

increased the 1976 assessments from the reported assessment level of 33 1/3 % of fair cash value to 41.38%. In 1977, 45 Ill.Dec. 828, 413 N.E.2d 161, the township assessors returned their assessments to the supervisor of assessments. The disputed assessments were at 33 1/3 % of the fair cash value of the properties and did not include the 1976 multiplier. The supervisor of assessments added the 1976 multiplier back into the 1977 assessments so that the 1977 assessments again equalled 41.38% of fair cash value. See *Aurand*, 90 Ill.App.3d at 561-63, 45 Ill.Dec. 828, 413 N.E.2d 161.

We found that the taxpayers were entitled to notice pursuant to section 103 even though there was technically no change since the last preceding assessment. (*Aurand*, 90 Ill.App.3d at 567-68, 45 Ill.Dec. 828, 413 N.E.2d 161.) However, there was an element present in *Aurand* which was not present here. The supervisor of assessments made a change in the assessors' figures after the assessors turned in the assessments. (*Aurand*, 90 Ill.App.3d at 567, 45 Ill.Dec. 828, 413 N.E.2d 161.) We held that "somewhere along the line the taxpayer clearly had a right to a notice which would alert him to the change in assessment and an opportunity to be heard." *Aurand*, 90 Ill.App.3d at 568, 45 Ill.Dec. 828, 413 N.E.2d 161.

Here, there is nothing in the record indicating that the supervisor of assessments made any adjustments to the initial assessment. The first adjustment occurred when the Board of Review applied the 1991 multiplier. Petitioner received notice of this adjustment. Therefore, the problem present in *Aurand* is not present here. Petitioner has received notice of all changes made during the

assessment processes whereas the taxpayer in *Aurand* did not.

Petitioner also relies on *In re Application of Anderson* (1984), 123 Ill.App.3d 507, 78 Ill.Dec. 887, 462 N.E.2d 1006. There, we stated:

> "In this case the 1978 assessment was increased by the 1979 equalization factor and the resulting 1979 equalized assessment was increased by the 1980 equalization factor to arrive at the contested 1980 equalized assessment. Such stairstep escalation of the original quadrennial assessment may indeed reflect legislative intent.
>
> We suggest however, that such intent would be recognized only by its author. * * * In short the Revenue Act of 1939 never specifically states that the most recent *equalized* assessment becomes 'the last preceding assessment' to which the subsequent equalization factor is applied." (Emphasis in original.) *Anderson*, 123 Ill.App.3d at 511, 78 Ill.Dec. 887, 462 N.E.2d 1006.

We rejected the county treasurer's argument that the taxpayers were not entitled to notice because there was no change between the 1979 equalized assessment and the preequalized assessment for 1980. (*Anderson*, 123 Ill.App.3d at 512, 78 Ill.Dec. 887, 462 N.E.2d 1006.) However, the version of section 103 that we construed in *Anderson* did not contain the language clarifying that the previous year's assessment is the assessment after equalization by the board of review in the previous year. (See Ill.Rev.Stat.1981, ch. 120, par. 584.) Also instructive is section 111, which provides that "[t]he assessment so completed by the board of review and certified to the

county clerk, *and as equalized as provided by law,* shall be the assessment upon which the taxes of that year shall be extended by the county clerk." (Emphasis added.) (35 ILCS 205/111 (West 1992).) These provisions amply reflect that the legislature intended the "last preceding assessment" to be the final assessment after equalization by the board of review.

This conclusion is consistent with the purpose underlying the assessment process. The Act gives a board of review the authority to adjust the assessments for incorrectly assessed property and to equalize assessments where such assessments are not truly assessed at 33⅓% of fair cash value. (35 ILCS 205/108(4), (5), 108a (West 1992).) The assessment entered after board of review action presumably reflects the most accurate assessment based on the fair cash value of the property. It is logical that this assessment should serve as the benchmark for comparison to the following year's assessment.

Petitioner directs us to the legislative history surrounding the above-mentioned amendment to section 103 and argues that this history reveals that the legislature did not intend to change the effect of the holding of *Anderson.* However, the rules of statutory construction do not allow "a court to canvass legislative history for evidence of legislative intent if the meaning of a provision can be determined from its text [citation]." (*Nevitt v. Langfelder* (1993), 157 Ill.2d 116, 134, 191 Ill.Dec. 36, 623 N.E.2d 281.) Because the legislative intent can be gleaned from the language of Act, we decline to look to the legislative history underlying the amendment to section 103. We hold that the Appeal Board correctly concluded that petitioner was not entitled to a mailed notice of the

Assessor's determination of the 1991 assessment of petitioner's property.

For the foregoing reasons, we affirm the Appeal Board's decision.

Affirmed.

GEIGER and DOYLE, JJ., concur.

UNITED STATES OF AMERICA

2-95-0313

State of Illinois,)
Appellate Court,) ss.
Second District,)

COTTER and COMPANY
Petitioner-Appellant,

v.

THE ILLINOIS PROPERTY TAX APPEAL BOARD and THE MCHENRY COUNTY BOARD OF REVIEW,
Respondents-Appellees

I, LOREN J. STROTZ, *Clerk of the Appellate Court, in and for said Second Judicial District of the State of Illinois, and the keeper of the Records and Seal thereof, do hereby certify that the foregoing is a true, full and complete copy of the decision of the said Appellate Court in the above entitled cause of record in my said office.*

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of the said Appellate Court, in Elgin, in said State, this 29th *day of* December, *A.D.* 1995.

/s/ Loren J. Strotz
Clerk Appellate Court,
Second District

ILLINOIS SUPREME COURT
JULEANN HORNYAK, CLERK
SUPREME COURT BUILDING
SPRINGFIELD, ILLINOIS 62701
(217) 782-2035

June 5, 1996

Mr. Thomas J. McNulty
Keck, Mahin & Cate
8300 Sears Tower, 233 South Wacker Drive
Chicago, IL 60606

No. 80687 – Cotter & Company, petitioner, v. The Illinois Property Tax Appeal Board et al., respondents. Leave to appeal, Appellate Court, Second District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on June 27, 1996.

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT:	DOCKET NO:
Cotter & Company	91-4393-I-3
ATTORNEYS:	PARCEL NO:
Thomas J. McNulty	See Separate Parcel
Patrick J. McNerney	Breakdown on pg. 9

The subject property consists of a manufacturing plant facility that has approximately 588,201 square feet of building area. The subject is 100 percent sprinklered, has a clear ceiling height of 24 feet and contains a 51,512 square feet of office area. The subject also contains 24 exterior truck docks and 20 interior docks with levelators. The improvements are located on a site that contains 30.70 acres and which is identified by six separate parcel numbers.

APPELLANT'S EVIDENCE

Appearing on behalf of the appellant before the Property Tax Appeal Board were attorneys Thomas J. McNulty and Patrick J. McNerney.

(continued on next page)

The Property Tax Appeal Board from the facts and exhibits presented finds the decision of the *McHenry* County Board of Review to be *incorrect* and that the correct assessed valuation of the property is:

TOTAL
LAND $349,740 IMPR. $3,459,280 TOTAL $3,809,020

Subject only to the State multiplier as applicable.

/s/ Max E. Coffey
CHAIRMAN

/s/ Brent Bohlen
MEMBER

/s/ Homer Henke
MEMBER

/s/ Charles Cain
MEMBER

_____
MEMBER

DISSENTING:_____

CLERK: James D. Chipman

DATE:2/22/95

Final administrative decisions of the Property Tax Appeal Board are subject to review in the Circuit or Appellate Court under the provisions of the Administrative Review Law and section 16-195 of the Property Tax Code.

Before any evidence or testimony regarding the subject's fair market value was offered, the appellant's attorneys made a legal argument concerning the Property Tax Appeal Board's jurisdiction over this appeal. The appellant's attorneys claimed that, as a matter of law, the appellant was entitled to receive a notice by mail of the 1991 assessment. They argued, since 1991 was a quadrennial assessment year, that the appellant should have received notice of the subject's 1991 assessment. Furthermore, notice should have been given because the 1990 assessment, which had been subject to a 1990 equalization

In essence, the appellant's attorney argued that carrying forward the final equalized 1990 assessment and then applying a 1991 township equalization factor constituted a change in the subject's assessment. They argued that when a change such as this is made between 1990 and 1991, notice by publication is not sufficient and notice through personalized mailing was required by statute. Lastly, the appellant's attorneys argued that the appellant's remedy should not be limited to removal of the multiplier and should be allowed to contest the total assessment amount because of the lack of individual notice.

As to the appellant's evidence and witness testimony, the attorneys' argued that the market value of the subject property was not accurately reflected in its assessed valuation. In support of this contention they presented a narrative appraisal along with supporting testimony of the preparer of the report. The appraiser testified that he holds the designations of Member of the American Institute of Real Estate Appraisers (MAI) and Member of the Society of Real Estate Appraisers (SRPA). He was contacted by Property Tax Services to do an independent fee appraisal of the subject. His fee was not contingent upon the result of the hearing.

The appellant's appraiser inspected the subject property on March 4, 1986 and April 16, 1992. He determined that the highest and best use was its existing use. In estimating the market value of the subject property the appraiser used the three traditional approaches to value.

The first method developed by the appraiser was the cost approach. Under the cost approach, the appraiser first

estimated the value of the land using five land sales. The five sales occurred between June, 1987 and July, 1989 and consisted of lots ranging in size from 6.5 to 100.23 acres. The sales prices ranged from $4,833 to $22,131 per acre. The appellant's appraiser concluded that the subject property had a value of $20,000 per acre for a total market value of $614,000.

In estimating the cost new of the subject improvements, the appellant's appraiser used the *Means Cost Manual*. He estimated the reproduction cost new of all of the improvements was $19,608,000. He then estimated depreciation through market extraction using the sales contained in the market approach. The appraiser was of the opinion that the market data demonstrated annual rates of depreciation from all causes ranging from 2.7 to 6.3 percent. He estimated that the subject had an annual rate of depreciation of 3.8 percent per year for a total depreciation of 64.6 percent. Subtracting the depreciation from the reproduction cost new resulted in a depreciated value of the improvements of $7,058,880. The appraiser then added the estimated land value to the value of the improvements to conclude a value under the cost approach for the subject property of $7,670,000.

The second approach used by the appellant's appraiser was the income capitalization approach to value. Under this approach the appraiser used six rental properties to estimate the market rent of the subject property. The comparables ranged in size from 228,560 to 758,000 square feet. The properties had net rentals ranging from $.46 to $1.93 per square foot. The appraiser estimated the subject had a net rental of $1.80 per square foot of building area resulting in a potential gross income of

$1,058,761. The appraiser deducted 10 percent or $105,876 for vacancy and credit loss resulting in an effective net income of $952,885.

The appraiser next estimated the capitalization rate to be applied to the net income using the sales contained in the market approach. The capitalization rates ranged from 11.3 to 19.9 percent. The appraiser selected a rate of 12.5 percent which he used to capitalize the net income into an indication of value. The appellant's appraiser concluded the subject had an indicated value under the income approach of $7,625,000.

The final approach developed by the appellant's appraiser was the market or sales comparison approach. The appraisal contained eight suggested comparable sales and one offering. The comparables ranged in size from 101,916 to 671,479 square feet of building area. The comparables were constructed between 1968 and 1982 and had varying degrees of similarities to the subject. The properties sold in a period from December, 1986 to September, 1991 for prices ranging from $921,000 to $9,500,000 or from $6.25 to $18.33 per square foot of building area. The appraiser estimated the subject had an indicated value under the market approach of $13.00 per square foot for a total value of $7,650,000.

In conclusion, the appraiser gave the most weight to the market approach and concluded the subject had a market value of $7,650,000 as of January 1, 1991.

BOARD OF REVIEW'S EVIDENCE

Appearing on behalf of the board of review was Dave Stone from the State's Attorneys Office and board of review member James Cullerton. The board of review did not offer any evidence and only engaged in a limited examination of the appellant's appraiser.

INTERVENOR'S EVIDENCE

Community School District #26 and Community High School District #155 intervened in the proceeding. Appearing on behalf of the intervenor was attorney, Bill Hanley. Prior to the hearing, the intervenors submitted a brief outlining their argument and offered a gridsheet detailing seven comparable properties. These properties ranged in size from 300,653 to 572,600 square feet of building area. The comparables had been sold between January, 1990 and December, 1990 for prices ranging from $7,088,507 to $32,700,000 or from $23.58 to $57.11 per square foot including land.

The intervenors did not offer any evidence at the hearing. Mr. Hanley indicated that an appraisal was not done because they were not aware of the appellant's legal argument concerning the notice statute. Moreover, since they believed that the assessment could not be increased or decreased beyond the application of the equalization factor, no further evidence was introduced into the record. The intervenors also argued that the appellant's legal argument concerning the notice statute should not have been allowed into evidence during the hearing. The intervenors claimed that this argument was not presented prior to the hearing and according to Property Tax

Appeal Board rules it should not have been subsequently allowed for the first time at the hearing stage of the appeal. In conclusion, the intervenors requested confirmation of the appellant's assessment.

The Property Tax Appeal Board finds that a Hearing Officer has full authority to admit or exclude testimony or other evidence pursuant to the Official Rules of the Property Tax Appeal Board Section 1910.67(h)(1)(B) and Section 1910.67(k). The hearing officer also provided both parties with a 30 day period in which to file post hearing briefs relating to the notice issue.

ANALYSIS-MARKET VALUE

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. Two issues were raised by this appeal. The first issue is whether the subject property's market value was accurately reflected in its assessed value. The second issue is whether the adoption of the 1990 equalized assessment as the 1991 assessment for the subject property constitutes an increase in the assessment which necessitates that personal notice of the assessment increase be given to the taxpayer of record. The Property Tax Appeal Board finds that the evidence supports a reduction in the subject's assessment. The Property Tax Appeal Board further finds that the adoption of the 1990 equalized assessment as the 1991 assessment for the subject property did not necessitate that personal notice of the assessment increase be given to the appellant.

As to the first issue, the subject had an assessment of $4,031,470 which reflects a market value of $12,095,620 or approximately $20.56 per square foot of building area using the 1991 three year median level of assessments of McHenry County of 33.33 percent. The appellant contends the subject has a market value of $7,650,000 based on their appraisal while the intervenor argues that the appropriate assessed value is $4,031,470.

The appellant's appraisal accorded primary weight to the market approach in arriving at their respective final estimates of value. The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. *Chrysler Corp. v. Illinois Property Tax Appeal Board,* 69 Ill.3d 207 (2nd Dist. 1979); *Willow Hill Grain, Inc. v. Property Tax Appeal Board,* 187 Ill.App. 3d 9 (5th Dist. 1989). Here, the appellant's appraisal offered eight comparable sales, as well as one sales offering, and the intervenors provided evidence of seven comparable sales.

The appellant's appraisal used eight comparable sales and one sales offering which ranged in size from 101,916 to 671,479 square feet of ground area. These comparables were sold and offered between 1986 and 1991 for prices ranging from $921,000 to $9,630,000 or from $6.25 to $17.54 per square foot. In comparison, the subject property's assessment of $4,031,470 reflects a market value of $12,095,620 or approximately $20.56 per square foot of building area. The subject's market value, based on its assessment, falls outside the range established by the appellant's sales comparables. In contrast, the intervenor's sales comparables which were sold between January, 1990 and December, 1990 had prices ranging from

$7,088,507 to $32,700,000 or from $23.58 to $57.11 per square foot including land. The subject property's market value would fit below this range.

The Property Tax Appeal Board finds that the appellant's appraisal and sales comparables should be given more weight than the intervenor's sales comparables. The appellant's appraisal was given more weight because the intervenor's evidence, which consisted only of seven comparable sales, was limited in description and detail. For example, the only information regarding the seven comparable sales were one page summaries on each property developed by the Land Sales Resource company and it only contained evidence of square footage, location of the comparables, dates and prices of the sales, price per square foot for each comparable and limited descriptions of the property. This information was not verified by the board of review or the intervenors, nor was anyone present to testify to the validity of their arguments. In fact, the only testimony regarding these comparables was rebuttal testimony by the appellants appraiser who questioned the reliability of these comparables due to their sizes, locations and circumstances relating to their sales.

The intervenor's attorney explained in his closing statement that more evidence and possibly an appraisal would have been submitted if they would have known that a legal issue was involved. Furthermore, additional evidence was not submitted because it was the intervenor's belief that the subject's assessment could not be increased or decreased beyond the application of the equalization factor. In contrast to the intervenor's case-in-chief, the appellant's case-in-chief was much more extensive and,

therefore, more credible because of the narrative appraisal and subsequent testimony presented by the appraiser who prepared the report.

Notwithstanding the credibility of the intervenor's comparables, the Property Tax Appeal Board finds that the most representative sales comparables consist of three of the appellant's comparables. These comparables ranged in size from 405,045 to 671,179 square feet and had sales prices ranging from $3,182,000 to $9,500,000 or from $6.25 to $14.14 per square foot. The subject property's assessment of $4,031,470, which reflects a market value of $12,095,620 or approximately $20.56 per square foot of building area, falls well outside this range. Thus, the Property Tax Appeal Board finds that the subject property's assessment as established by the board of review is excessive and a reduction is warranted.

ANALYSIS-NOTICE REQUIREMENTS

The second issue is whether the adoption of the 1990 equalized assessment as the 1991 assessment for the subject property constitutes an increase in the assessment which necessitates that personal notice of the assessment increase be given to the taxpayer of record. The appellant's attorney argued that carrying forward the final equalized 1990 assessment and then applying a 1991 township equalization factor constituted a change in the subject's assessment. They argued that when a change such as this is made between 1990 and 1991, notice by publication, which was the type of notice involved in this case, is not sufficient and notice through personalized mailing is required by statute. The intervenors argued

that a taxpayer's receipt of tax bills satisfies the notice requirement when a prior year's equalized assessed valuation is then equalized during the following tax year.

In support of their argument, the appellant submitted a post hearing legal brief outlining their legal position. The appellant argued that Section 103 of the Revenue Act of 1939, as amended, (35 ILCS 205/103) requires a mailed notice to each taxpayer, "whose real property assessment has been changed since the last preceding assessment except in the case of changes caused by a change in the county equalization factor by the Department during any year such change is made." In this case, the appellant was mailed notices of 1990 and 1991 equalization factors. However, the appellant argues that since the final 1990 equalized assessment was carried forward as the pre-equalized 1991 assessment it constituted a change in the subject's general assessment.

The Property Tax Appeal Board finds that the appellant's statutory argument to be without merit. Section 103 of the Revenue Act of 1939, as amended, (35 ILCS 205/103) states;

> In every county containing less than 2,000,000 inhabitants, in addition to the publication of the list of assessments of real property in each year of a general assessment of real property and of a list of real estate for which assessments have been added or changed, as provided above, a notice shall be mailed by the County Assessor or supervisor of assessments, as the case may be, to each taxpayer at his address as it appears on the assessor's records as to *whose real property assessment has been changed since the last preceding assessment* except in the case of changes caused

> by a change in the county equalization factor by the Department, during any year such change is made.

Section 103 requires personal notice when the assessment has been changed since the last preceding assessment. Clearly, the record reflects that the appellant's 1990 final equalized assessment was used as the basis for the 1991 preequalized assessment. Thus, the appellant's preequalized 1991 assessment was not changed since the last preceding assessment in 1990. Lastly, the Property Tax Appeal Board does not interpret the statute to be a mandate, as argued by the appellant in the post hearing brief, which requires personal notification to taxpayers in situations in which a township equalization factor was applied. The Property Tax Appeal Board finds that carrying forward the appellant's final equalized 1990 assessment to 1991 does not constitute a change which would require personal notification pursuant to Section 103 of the Revenue Act.

In further support of this statutory argument, the appellant cited *In re Application of Anderson*, 123 Ill.App.3d 507 (2d Dist. 1984). In *Anderson*, the taxpayers were contesting the same type of increase in their assessment, in which a prior year's equalized assessment became a subsequent year's assessment, which is thereafter subjected to another equalization factor for the current year. In *Anderson*, the court concluded that taxpayers are entitled to notice of a change in their current year's assessment resulting from application of a prior year's township equalization factor. (*Anderson*, at 512). The appellant argued that the *Anderson* case and Section 103 of the Revenue Act should be construed to mean that notice by

publication was not sufficient and personal notice by mailing was required in the current circumstances.

In rebuttal, the intervenors cited *Anest v. Lake County*, 147 Ill.App 3d 243 (2nd Dist. 1986). In *Anest*, the equalized assessed valuation for one year was determined by the assessor to be the assessed valuation for the following year, which was subsequently subjected to the current year's equalization factor. The assessed valuations and the equalized assessed valuation appeared on the taxpayers' annual tax bills. The court held that the receipt of annual tax bills informing the taxpayers that the assessments had increased during each year satisfied due process notice requirements. (*Anest*, at 247). The *Anest* court cited, *Dietman v. Hunter*, 5 Ill. 2d 486, 489, 126 N.E.2d 22, which set forth the parameters of due process in tax assessments:

> "Due process requires that the property owner be given notice and an opportunity to be heard upon the valuation of his property at some point in the taxing process before his liability to pay the taxes becomes conclusively established."

The *Anest* court continued by stating that, "actual notice of tax assessment increases is sufficient to satisfy due process." *Andrews v. Foxworthy*, 71 Ill.2d 13, 22, 373 N.E.2d 1332 (1978); *People ex rel. Ball v. Anderson*, 21 Ill.2d 396, 400-01, 172 N.E.2d 760 (1961). Similar to the facts of the *Anest* decision, here the appellant received tax bills revealing that the 1990 equalized valuation was determined to be the 1991 assessed valuation. Moreover, notices were given regarding the application of the 1990 and 1991 equalization factors.

The *Anderson* case addressed the issue of when personal notice must be given and concluded that notice by publication was not sufficient in cases where the subject property's assessment was deemed to be increased from the previous year. More specifically, personal notice must be given when a previous year's final equalized assessment is carried forward to the subsequent year's assessment. This decision can be distinguished from the present appeal and the *Anest* case. In contrast, the *Anest* case addressed the issue of what constitutes notice for due process considerations. The *Anest* case ruled that a taxpayer's bill was sufficient notice of any changes in the previous year's assessment. Notice is sufficient because the simple act of comparing the previous year's bill with the current year's bill serves as notice of any changes. (*Anest*, at 247).

Here in this appeal, the appellant received notice through the publication of their assessment and through their 1991 tax bill. The Property Tax Appeal Board finds that, even though the *Anderson* case is factually similar, it is distinguishable and is therefore not controlling in this case.

The Property Tax Appeal Board finds, notwithstanding the previous conclusion that notice was not required, that the *Anest* case is controlling on the issue of notice and that the appellant received adequate notice of their 1991 assessment. In conclusion and based on the appellant's market value argument, the Property Tax Appeal Board finds that the subject property's assessment as established by the board of review is excessive and a reduction is warranted. The Property Tax Appeal Board also notes that since the appeal was filed after notification of an

equalizing factor, the amount of relief that the Property Tax Appeal Board can grant is limited pursuant to section 16-180 of the Property Tax Code (35 ILCS 200/16-180). This section provides in pertinent part that:

> "where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalizing factor assigned to all property or to a class of property by the board of review, the Property Tax Appeal Board may not grant a reduction in assessment greater than the amount that was added as the result of the equalizing factor."

The Board has interpreted this provision to mean that where a taxpayer has not filed an appeal with the board of review but files an appeal directly to the Property Tax Appeal Board after receiving notice of the application of an equalization factor, the Board cannot grant a reduction in the assessment greater than the amount of increase caused by the equalization factor. Therefore, the Property Tax Appeal Board's jurisdiction to grant relief is limited to the increase caused by the application of the equalizing factor. As a result, the Property Tax Appeal Board finds that it may only grant a reduction in the subject's assessment equal to the amount that was added as a result of the equalization factor.

19-13-282-014
LAND $2,030 IMPR. $0 TOTAL $2,030

19-13-282-017
LAND $55,840 IMPR. $1,660,450 TOTAL $1,716,290

19-13-426-005
LAND $75,360 IMPR. $0 TOTAL $75,360

20-18-156-002
LAND $68,820 IMPR. $0 TOTAL $68,820

20-18-156-003
LAND $22,900 IMPR. $0 TOTAL $22,900

20-18-301-001
LAND $124,790 IMPR. $1,798,830 TOTAL $1,923,620

TOTAL $3,809,020

28 U.S.C. § 1341. Taxes by States

The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.

(June 25, 1948, c. 646, 62 Stat. 932.)

205/20. Valuation of real property

§ 20. Except in counties with a population of more than 200,000 which classify real property for purposes of taxation, real property shall be valued as follows:

(1) Each tract or lot of real property shall be valued at 33 1/3% of its fair cash value.

(2) Each taxable leasehold estate shall be valued at 33 1/3% of its fair cash value.

(3) Each building or structure which is located on the right of way of any canal, railroad or other company leased or granted to another company or person for a term of years, shall be valued at 33 1/3% of its fair cash value.

(4) Any real property on which there is a coal or other mine, or stone or other quarry, shall be valued at 33 1/3% of its fair cash value.

(5) In the assessment of real estate encumbered by public easement, any depreciation occasioned by such easement shall be deducted in the valuation of such property. Any property dedicated as a nature preserve under the "Illinois Natural Areas Preservation Act", as now or hereafter amended,[1] for the purposes of this paragraph, is encumbered by a public easement and shall be depreciated for assessment purposes to a level at which its valuation shall be $1.00 per acre or portion thereof.

(6) For assessments made on or after January 1, 1987, oil, gas and other minerals, except coal, shall have

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[1] 525 ILCS 30/1 et seq.

value and be assessed separately at 33 1/3% of the fair cash value of such oil, gas and other minerals except coal. However, no assessment made or corrected before the effective date of this amendatory Act of 1986 shall be considered incorrect for having failed to have been in compliance with this paragraph (6).

(7) For assessments made on or after January 1, 1987, coal shall be assessed separately at 33 1/3% of the coal reserve economic value. However, no assessment made or corrected before the effective date of this amendatory Act of 1986 shall be considered incorrect for having failed to have been in compliance with this paragraph (7).

The provisions of this Section are subject to the provisions of and are modified by Sections 21a-1 through 21a-13 of this Act as amended.

The provisions of this Section are subject to Sections 20e and 20k of this Act.

205/43. General assessment years

§ 43. In counties having the township form of government and a population of less than 1,000,000 inhabitants, the general assessment years shall be 1963 and every fourth year thereafter, unless and until changed as provided in this Section for counties having the township form of government and a population of 100,000 or more but less than 1,000,000 inhabitants. In counties having the commission form of government and a population of less than 1,000,000 inhabitants, the general assessment years shall be 1962 and every fourth year thereafter.

The county board of each county having a population of 1,000,000 inhabitants or more shall, by resolution adopted before January 1, 1960, divide the county into 4 assessment districts. If the county is organized in townships the assessment districts shall follow township lines. The assessment districts shall divide, as near as may be, the work of assessing the real estate in the county into 4 equal parts. Neither the area nor the number of parcels of real estate need be equal in the 4 assessment districts. The resolution shall number the assessment districts 1 to 4 inclusive. The general assessment years for assessment district number 1 shall be 1964 and every fourth year thereafter; for assessment district number 2 the general assessment years shall be in 1965 and every fourth year thereafter; for assessment district number 3 the general assessment years shall be 1966 and every fourth year thereafter, and for assessment district number 4 the general assessment years shall be 1963 and every fourth year thereafter. The county board of any county divided into assessment districts under this paragraph may provide by resolution of the county board for the assessment of the entire county in any year.

Notwithstanding any other provision in this Act to the contrary, the county board of a county having a population of 3,000,000 or more inhabitants may by resolution effective after December 31, 1983, divide the county into any number of assessment districts. If the county is organized into townships, the assessment districts shall follow township lines. The assessment districts shall divide, as near as practicable, the work of assessing the real property in the county into equal parts but neither the area nor the number of parcels of real estate need

be equal in the assessment districts. The resolution shall number the assessment districts. The resolution shall provide for a general reassessment of each district after December 31, 1983, at regular intervals determined by the county board.

The county board of any county may, by resolution adopted before January 1, 1990, divide the county into 4 assessment districts. The assessment districts shall follow township lines if the county is organized into townships, and shall divide, as near as may be, the work of assessing the real estate in the county into 4 equal parts. Neither the area nor the number of parcels of real estate need be equal in the 4 assessment districts. The resolution shall number the assessment districts 1 to 4 inclusive. The general assessment years for assessment district number 1 shall be 1990 and every fourth year thereafter; for assessment district number 2 the general assessment years shall be 1987 and every fourth year thereafter; for assessment district number 3 the general assessment years shall be 1988 and every fourth year thereafter; and for assessment district number 4 the general assessment years shall be 1989 and every fourth year thereafter. However, the general assessments shall not include real property constituting a farm which is assessed pursuant to Section 20e of this Act. The county board of any county divided into assessment districts under this paragraph may provide by resolution for the assessment of the entire county in the general assessment year provided by law for that county and for the dissolution of the assessment districts after the first such assessment.

The county board of any county may, by resolution adopted after January 1,1992, divide the county into 4

assessment districts. The county clerk shall forward a copy of the resolution to the Illinois Department of Revenue. The assessment districts shall follow township lines if the county is organized into townships, and shall divide, as near as may be, the work of assessing the real estate in the county into 4 equal parts. Neither the area nor the number of parcels of real estate need be equal in the 4 assessment districts. The resolution shall number the assessment districts 1 to 4 inclusive. The general assessment years for assessment district number 1 shall be 1992 and every fourth year thereafter, for assessment district number 2 the general assessment years shall be 1993 and every fourth year thereafter; for assessment district number 3 the general assessment years shall be 1994 and every fourth year thereafter; and for assessment district number 4 the general assessment years shall be 1995 and every fourth year thereafter. However, the general assessments shall not include real property constituting a farm which is assessed pursuant to Section 20e of this Act. The county board of any county divided into assessment districts under this paragraph may provide by resolution for the assessment of the entire county in the general assessment year provided by law for that county and for the dissolution of the assessment district after the first such assessment.

On or before June 1 in each general assessment year in all counties having a population less than 1,000,000 inhabitants, and as soon as he reasonably can in each general assessment year in counties having a population of 1,000,000 or more inhabitants, or if any such county is divided into assessment districts as provided above, as soon as he reasonably can in each general assessment

year in such assessment districts, the assessor in person or by his deputy shall actually view and determine as near as practicable the value of each tract or lot of land listed for taxation as of January 1, or as provided in Section 27a of this Act, of such year and assess the same at 33 1/3% of its fair cash value, or in accordance with Sections 20e and 20k of this Act, or in accordance with a county ordinance adopted pursuant to Section 4 of Article IX of the Constitution of Illinois, setting down the sum in the proper column in the books furnished him.

In making such assessments he shall set down his assessed valuation of tracts and lots in one column, and his assessed value of improvements in another column.

205/103. Publication in counties of less than 2,000,000 – Notice to taxpayers – Fees

§ 103. In counties containing less than 2,000,000 inhabitants, as soon as the supervisor of assessments or board of assessors, as the case may be, has completed the assessment in the county or in the assessment district he or it shall, in each year of a general assessment of real property, publish for such county or assessment district a full and complete list of the assessment of real property, by townships if the county be so organized. In years other than years of a general assessment of real property, the assessor, supervisor of assessments or board of assessors, as the case may be, shall publish a list of real estate for which assessments have been added or changed since the last preceding assessment, together with the amounts

of the assessments on such real estate, except that publication of individual assessment changes shall not be required if such changes result from equalization by the supervisor of assessments pursuant to Section 95a, or Section 20k, in which case such list shall include a general statement indicating that assessments have been changed because of the application of an equalization factor and shall set forth the percentage of increase or decrease represented by such factor. Such publication shall be made on or before December 31 of that year in all counties with less than 2,000,000 inhabitants, and shall be printed in some public newspaper or newspapers published in the county. In every county containing less than 2,000,000 inhabitants, in addition to the publication of the list of assessments of real property in each year of a general assessment of real property and of the list of real estate for which assessments have been added or changed, as provided above, a notice shall be mailed by the county assessor or supervisor of assessments, as the case may be, to each taxpayer at his address as it appears on the assessor's records as to whose real property the assessment has been changed since the last preceding assessment except in the case of changes caused by a change in the county equalization factor by the Department, during any year such change is made. Such notice may, but need not be, sent by a township assessor. Such notice shall include the median level of assessment in the assessment district (as determined by the most recent 3 year assessment to sales ratio study adjusted to take into account any changes in assessment levels implemented

since the data for such studies were collected), the previous year's assessed value after board of review equalization current assessed value and, in bold type, a notice of possible eligibility for a homestead improvement exemption as provided in Section 19.23-2.

The notice shall include a statement in substantially the following form:

"NOTICE TO TAXPAYER

Your property is to be assessed at the median level of assessment for your assessment district. You may check the accuracy of your assessment by the following procedure: Divide your assessment by the median level of assessment for your assessment district. If the resulting value is greater than the estimated fair cash value of your property, you may be over-assessed. If the resulting value is less than the estimated fair cash value of your property, you may be under-assessed. You may appeal your assessment to the Board of Review in the manner described elsewhere in this notice."

Such notice shall contain a brief explanation of the relationship between the assessment and the tax bill (including an explanation of the equalization factors) and an explanation that the assessment stated for the preceding year is after equalization by the board of review in the preceding year and shall set forth the procedures and time limits for appealing assessments and that assessments of real property, other than farm land and coal, are required by law to be 33 1/3% of value. Where practicable, such notice shall include the reason for any increase in the property's valuation. Such notice must also state the

name and price per copy by mail of the newspaper in which the list of assessments will be published. The form and manner of providing the information and explanations required to be in such notice shall be prescribed by the Department. Whenever the address of a taxpayer to whom such notice is to be mailed as provided above, as such address appears on the assessor's records, is the address of a mortgage lender, or in any event whenever such notice is mailed by the township assessor, supervisor of assessments or board of assessors to the taxpayer at or in care of the address of a mortgage lender, the mortgage lender – within 15 days of the mortgage lender's receipt of such notice – shall mail a copy of the same to each mortgagor of the real property referred to in such notice at the last known address of each such mortgagor as shown on the records of the mortgage lender. As used in this Section: the term "mortgage lender" means any bank, savings and loan association, building and loan association, mortgage banker or other institution, association, partnership, corporation or person that is engaged in this State in the business of making loans of moneys, or that regularly makes loans of moneys in this State, or that services loans, including the collection of such loans, which loans are directly secured by mortgages, trust deeds in the nature of mortgages or other instruments in the nature of mortgages, which mortgages, trust deeds or other instruments constitute a lien upon real property situated in this State; and the term "mortgagor" means an owner of real property situated in a county of this State having less than 2,000,000 inhabitants who creates a lien against such property in favor of a mortgage lender by

executing a mortgage, trust deed in the nature of a mortgage or other instruments in the nature of a mortgage covering such property. In every township or assessment district in which there is published one or more newspapers of general circulation, the list of such township shall be published in one of the newspapers.

As the top of the list of assessments there shall be a notice in substantially the following form printed in type no smaller than eleven point:

"NOTICE TO TAXPAYERS

Mediam Level of Assessment – (insert here the median level of assessment for the assessment district)

Your property is to be assessed at the above listed median level of assessment for the assessment district. You may check the accuracy of your assessment by the following procedure: Divide your assessment by the median level of assessment. The resulting value should equal the estimated fair cash value of your property. If the resulting value is greater than the estimated fair cash value of your property, you may be over-assessed. If the resulting value is less than the fair cash value of your property, you may be under-assessed. You may appeal your assessment to the Board of Review."

The newspaper shall furnish to the local assessment officers as many copies of the paper containing the assessment list as he or they may require. The newspaper shall be paid a fee for publishing the assessment list according to the following schedule:

(1) For a parcel listing including the name of the property owner, an index number and the total assessment, 80¢ per parcel;

(2) For a parcel listing including the name of the property owner, an index number, the assessed value of improvements and the total assessment, $1.20 per parcel;

(3) For a parcel listing including the name of the property owner, a legal description of the property and the total assessment, $1.20 per parcel;

(4) For a parcel listing including the name of the property owner, an index number, a legal description and the total assessment, $1.60 per parcel;

(5) For a parcel listing including the name of the property owner, a legal description, the assessed value of improvements and the total assessment, $1.60 per parcel;

(6) For a parcel listing including the name of the property owner, an index number, a legal description, the assessed value of improvements and the total assessment, $2.00 per parcel; and

(7) For the preamble, headings, and any other explanatory matter either required by law, or requested by the supervisor of assessments, to be published, the newspaper's published rate for such advertising.

205/104. Publication in counties of 2,000,000 or more – Fees

§ 104. In counties containing 2,000,000 or more inhabitants, in each year of a general assessment of real property, for such county or assessment district therein if the county is divided into assessment districts as provided in Section 43, the county assessor shall publish a full and complete list of his assessment of real property as soon as such assessment is completed in the manner as is provided in this Section. In such counties, or assessment districts therein, in years other than years of a general assessment or reassessment of real property, the county assessor shall cause to be published, within the time and in the manner herein provided, a full and complete list of such assessments in which changes are made together with the changes made in the valuation or assessment of real property since the last preceding assessment. Such publication shall contain a copy of the land value map for the township, if required by the Department.

In such counties, or assessment districts therein, the publication of the assessments of real property or the changes therein required in this Act to be published, shall be printed in some newspaper or newspapers of general circulation published in the county except that, in every township or incorporated town which has superseded a civil township, in which there is published one or more newspapers of general circulation, the assessment list of such townships shall be published in one of such newspapers and in cities of more than 2,000,000 population the assessment list of such city shall be printed in one or

more newspapers of general circulation published in the township assessment district within such city or, in the event a newspaper of general circulation is not published within such township assessment district, in one or more newspapers of general circulation published within such city.

Any newspaper publishing an assessment list is entitled to a fee of 40¢ per column line for publishing such list.

205/108. Powers and duties of board of review

§ 108. In counties containing less than 1,000,000 inhabitants, the board of review shall, in any year, whether the year of the general assessment or not:

(1) Assess all real property subject to assessment which shall not have been assessed by the assessor, and list and assess all real property that may have been omitted in the assessment of any year or number of years, or if the tax thereon, for which such property was liable, from any cause has not been paid, or if any such property, by reason of defective description or assessment thereof, shall fail to pay taxes for any year or years, in either case the same when discovered shall be listed and assessed by the board in its revision of assessments, and the board may make such alteration in the description of real property as it shall deem necessary.

(2) No such charge for tax of previous years shall be made against any property prior to the date of ownership

of the person owning such property at the time the liability for such omitted tax was ascertained. Ownership as used in this section shall be held to refer to bona fide legal and equitable titles or interests acquired for value and without notice of the tax, as may appear by deed, deed of trust, mortgage, certificate of purchase or sale or other form of contract. No such charge for tax of previous years shall be made against any real property if (a) the real property was last assessed as unimproved, (b) the owner of such property gave notice of subsequent improvements and requested a reassessment as required by Section 27a of this Act, and (c) reassessment of the real property was not made within the 16 month period immediately following the receipt of that notice. Provided, that an assessment of real property omitted from taxation by a decedent during his lifetime, shall be made against such property and be assessed in the name of the personal representative as executor, administrator or trustee of such decedent's estate. The owner of real property, and the executor, administrator or trustee of a decedent, whose property may have been omitted in the assessment in any year or number of years, or on which a tax for which such property was liable, has not been paid, and the several taxing bodies interested therein, shall be given at least 5 days notice in writing by the board, of the hearing on the proposed assessment of such omitted property, and the board shall have full power to examine the owner, or the executor, administrator, trustee, legatee or heir of such decedent or other person touching the ownership, kind, character, amount and the value of such omitted property or credits.

(3) If the board shall determine that the property of any decedent was omitted from assessment during any year or number of years or that a tax for which such property was liable has not been paid, it shall be the duty of the board to give written notice to the executor, administrator or trustee of such decedent of the assessments made against such property and the amount thereof, and thereupon it shall be the duty of such executor, administrator or trustee to retain in his or their hands sufficient of the assets of such decedent's estate to pay the tax when extended on such assessment, and it shall be the duty of the county clerk to file in the circuit court, a copy of such assessment, together with the rate of taxation thereon certified by such county clerk, and upon the filing of such certificate, the court shall enter an order directing such executor, administrator or trustee to deposit with the clerk of the court or to sequester sufficient of the assets of the estate to pay the taxes on such assessments when extended as now provided by law, or to enter into bond in double the amount of such tax with sureties to be approved by the court conditioned for the payment of the tax when so extended; and when so extended by the county clerk the full amount of such tax shall be a claim of the first class against such estate. However, an assessment of omitted property by the board of review in the manner provided in this Act shall not be subject to review by any succeeding board.

For the purpose of enforcing the provisions of this Act, the several taxing bodies interested therein are hereby empowered to employ counsel to appear before the board and take all necessary steps to enforce the assessment on such omitted property.

(4) On complaint in writing that any property described in such complaint is incorrectly assessed, the board shall review the assessment, and correct it, as shall appear to be just, but in no case shall such property be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department. Such complaint to affect the assessment for the current year shall be filed on or before the 10th day of August in counties with less than 150,000 inhabitants and on or before the 10th day of September in counties with 150,000 or more but less than 1,000,000 inhabitants: Provided, that if the assessment books containing the assessment complained of are not filed with the board of review by the 10th day of July in a county with less than 150,000 inhabitants or by the 10th day of August in a county with 150,000 or more but less than 1,000,000 inhabitants, then such complaint shall be filed on or before 30 calendar days after the date of publication of the assessment list pursuant to Section 103 of this Act. The board may also of its own motion, at any time before its revision of the assessments is completed in every year, increase, reduce or otherwise adjust the assessment of any individual or corporation, on real property, making changes in the valuation thereof as may be just, and shall have full power over the assessment of any individual or corporation, and may do anything in regard thereto that it may deem necessary to make a just assessment, but in no case shall such property be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department; but no assessment shall be

increased until the person or corporation to be affected shall have been notified, and given an opportunity to be heard, except as hereinafter provided; and before making any reduction in assessments of its own motion, the board of review shall give notice to the board of assessors, assessor or supervisor of assessments which certified the assessment, and give such assessor or supervisor of assessments an opportunity to be heard thereon. All complaints of errors in assessments of real property shall be in writing, and shall be filed by the complaining party with the board of review, in duplicate, and the duplicate shall be forthwith filed by the board of review with the board of assessors, assessor or supervisor of assessments certifying such assessment, and, in all cases where a change in assessed valuation of $100,000 or more is sought, the board of review shall also serve a copy of the petition on all taxing districts as shown on the last available tax bill at least 14 days prior to the hearing on such complaint. All taxing districts shall have an opportunity to be heard on such complaint. Complaints relating to real property shall be classified by towns or taxing districts by the clerk of the board of review. All classes of complaints shall be docketed numerically, each in its own class, in the order in which they shall be presented, as near as may be, in books kept for that purpose, which books shall always be open to public inspection. Complaints relating to real estate shall be considered by towns or taxing districts until all complaints have been heard and passed upon by the board.

(5) Increase or reduce the entire assessment of real property, or of any class included therein if, in its opinion, the assessment has not been made upon the proper

basis, or equalize the assessment of real property, by increasing or reducing the amount thereof, in any multi-township or township, or part thereof, or any portion of the county as may, in its opinion, be just, but the assessment of any class of property or of any township or multi-township or part thereof, or any portion of the county, shall not be increased until the board shall have made one publication of notice in a newspaper of general circulation published in the county, of such proposed increase and shall have given the owners of the property affected, or any one representing them, or other citizens of said territory, an opportunity to be heard within 20 days after the date of such publication. The board of assessors, assessor or supervisor of assessments shall have like opportunity to be heard thereon, except where such action is taken in individual cases upon complaint. The board shall hear any person, upon request, in opposition to a proposed reduction in the assessment of any person, corporation or territory.

(6) The board of review shall hear and determine the application of any person who is assessed on property claimed to be exempt from taxation. However, the decision of the board shall not be final, except as to homestead exemptions approved in accordance with Section 19.23, 19.23-1, 19.23-1a, 19.23-2 or 19.23-3. Upon filing of any application for an exemption which would reduce the assessed valuation of any real property by more than $100,000, other than a homestead exemption, the owner shall give timely notice of the application to any municipality, school district and community college district in which such property is situated. Such notice shall be given by mailing a copy of the application for exemption

to any municipality, school district or community college district in which such property is situated. Failure of a municipality, school district or community college district to receive such notice shall not invalidate any exemption. The board shall give such municipalities, school districts and community college districts and the taxpayer an opportunity to be heard. It shall be the duty of the clerk of the board in all cases other than homestead exemptions, under the direction of the board, to make out and forward to the Department, a full and complete statement of all the facts in the case. The Department shall then determine whether such property is or is not legally liable to taxation. It shall notify the board of review of its decision, and the board shall correct the assessment accordingly, if necessary. The decision of the Department shall be a final administrative decision. The extension of taxes on any such assessment shall not be delayed by any proceedings under this paragraph, and, in case the property is decided to be exempt, any taxes extended upon such unauthorized assessment shall be abated or, if already paid, shall be refunded.

(7) The board of review shall, at any time before judgment, if an error or mistake is discovered (other than errors of judgment as to the valuation of any real property), in an assessment of any real property belonging to any person or corporation, issue a certificate setting forth the nature of such error and the cause or causes which operated to produce such error or mistake, to the person or corporation erroneously assessed, which such certificate when properly endorsed by the board of assessors or supervisor of assessments showing his concurrence therein and not otherwise, may be used in evidence in

any court of competent jurisdiction, and when so introduced in evidence, such certificate shall become a part of the court records, and shall not be removed from the files except upon the order of the court.

After the board of review has issued a certificate of error and it has been properly endorsed by the board of assessors, assessor or supervisor of assessments, 2 copies of such certificate of error shall be made and one copy given to the county clerk and one copy given to the collector. The county clerk shall keep records of the changes or corrections made in the certificate and shall certify such corrections to the collector so that he can account for the proper amount of taxes chargeable to him.

If the board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Section 43, unless the taxpayer or other interested party can show substantial cause why such reduced assessment should not remain in effect for the remainder of the general assessment period, or unless the decision of the board is reversed or modified upon review.

205/111.1. Creation – Membership – Chairman – Vacancies – Appeal of decision of board of review

§ 111.1. There shall be created the Property Tax Appeal Board, consisting of 5 members appointed by the Governor, with the advice and consent of the Senate. The

Governor, with the advice and consent of the Senate, shall designate one of the members as Chairman. The property Tax Appeal Board shall be totally independent of the Department. A vacancy in the membership of the Board shall be filled in the same manner as original appointments are made.

In any county other than a county of over 1,000,000 population, any taxpayer dissatisfied with the decision of a board of review as such decision pertains to the assessment of his property for taxation purposes, or any taxing body that has an interest in the decision of the board of review on an assessment made by any local assessment officer, may, within 30 days after the date of written notice of the decision of the board of review, appeal such decision to the Property Tax Appeal Board for review. In any appeal where the board of review has given written notice of the hearing to the taxpayer 30 days before the hearing, failure to appear at the board of review hearing shall be grounds for dismissal of the appeal unless a continuance is granted to the taxpayer. If an appeal is dismissed for failure to appear at a board of review hearing, the Property Tax Appeal Board shall have no jurisdiction to hear any subsequent appeal on that taxpayer's complaint. Such taxpayer or taxing body, hereinafter called the appellant, shall file a petition with the clerk of the Property Tax Appeal Board, setting forth specifically the facts upon which he bases his objection to the decision of the board of review, together with a statement of the contentions of law which he desires to raise, and the relief he requests. If a petition is filed by a taxpayer, the taxpayer is precluded from filing objections based upon valuation, as may otherwise be permitted by

Sections 194, 195 and 235 of this Act. However, any taxpayer not satisfied with the decision of the board of review as such decision pertains to the assessment of his property for taxation purposes, need not appeal such decision to the Property Tax Appeal Board for review before seeking relief in the courts.

205/111.2. Procedure – One-year assessment level

§ 111.2. The Property Tax Appeal Board shall establish by rules an informal procedure for the determination of the correct assessment of property which is the subject of an appeal. Such procedure, to the extent that the Board considers practicable, shall eliminate formal rules of pleading, practice and evidence, and except for any reasonable filing fee determined by the Board, may provide that costs shall be in the discretion of the Board. A copy of the appellant's petition shall be mailed by the clerk of the Property Tax Appeal Board to the board of review whose decision is being appealed. In all cases where a change in assessed valuation of $100,000 or more is sought, the board of review shall serve a copy of the petition on all taxing districts as shown on the last available tax bill. The chairman of the Property Tax Appeal Board shall provide for the speedy hearing of all such appeals. All appeals shall be considered de novo. However, where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalizing factor assigned to all property or to a class of property by the board of review, the Property Tax Appeal Board may not grant a reduction in assessment

greater than the amount that was added as the result of the equalizing factor.

205/138. Review under Administrative Review Law

§ 138. The circuit court for the county in which the property assessed, or some part of such property, is situated shall have the power to review all final administrative decisions of the Department in administering this Act. The Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure, and includes assessment ratios and percentages for equalization of assessments determined by the Department pursuant to Sections 146, 148a, 149 and 151 of this Act. Any review of assessment ratios and percentages for equalization of assessments under the Administrative Review Law shall not delay the computation, mailing or payment of tax bills, and if a final court decision holding the Department's ratios or percentages in error comes after the mailing of the tax bills, an adjustment shall be made on all bills in the assessment district in the first tax billing following the decision to credit taxpayers with any payments which may have exceeded the maximum tax rate in rate-limited

levies of non-home rule taxing units. Service upon the Director or the Assistant Director of the Department of summons issued in an action to review a final administrative decision of the Department shall be service upon the Department.

Appeals from all final orders and judgments entered by the circuit court upon review of the Department's determination in any case shall be taken as in other civil cases.

205/146. Authority of Department to equalize

§ 146. The Department shall act as an equalizing authority. It shall examine the abstracts of property assessed for taxation in the several counties and assessment districts in counties having assessment districts as returned by the county clerks and shall equalize the assessments between counties as in this Act provided. Except as hereinafter provided the Department shall lower or raise the total assessed value of property in any county as returned by the county clerk, other than property assessed pursuant to Sections 20e and 20k of this Act, so that such property will be assessed at 33 1/3% of its fair cash value.

By means of a comparison of assessed valuations, as revised by boards of review or boards of appeals, as the case may be, and estimated 33 1/3% of the fair cash values established through the analysis of property transfers, property appraisals, and such other means as it deems

proper and reasonable, the Department shall annually ascertain and determine the percentage relationship, for each county of the State, between the valuations at which locally-assessed property, other than property assessed pursuant to Sections 20e and 20k of this Act, is listed by assessors and revised by boards of review or boards of appeal, as the case may be, and the estimated 33 1/3% of the fair cash value of such property.

With the ratio so ascertained and determined for each county, the Department shall then ascertain the percentage to be added to or deducted from the aggregate reviewed assessment on property subject to local assessment jurisdiction, other than property assessed pursuant to Sections 20e and 20k of this Act, in order to produce a ratio of assessed to 33 1/3% of the fair cash value equivalent to 100%.

If the Department determines that there are substantial differences in the level of assessment among different townships in the same county, it shall, upon the request of the county executive or, in counties not having an elected county executive, of the county board pursuant to resolution adopted by the board, apply separate township equalization factors, determined by the Department, in lieu of a single equalization factor for the entire county. The amendatory Act of 1971 does not apply within the jurisdiction of any county which elects an assessor or a board of assessors.

205/194. Payment of taxes – Payments under protest – Illegal taxes – Bonds – Payments

§ 194. (a) Except as otherwise provided in Section 224.1 of this Act, current taxes on real property shall be payable in 2 equal installments. The collector, when so requested by the party paying the taxes, shall receive and receipt for such taxes in installments. The collector shall receive taxes on part of any lot, piece or parcel of land charged with taxes when a particular specification of the part is furnished. If the tax on the remainder of such lot or parcel of land remains unpaid, the collector shall enter such specification in his return, so that the part on which the tax remains unpaid may be clearly known. The tax may be paid on an undivided share of real estate. In such case the collector shall designate on his record upon whose undivided share the tax has been paid.

If any person desires to object pursuant to Section 235 of this Act to all or any part of a real property tax for any year, for any reason other than that the property is exempt from taxation and that a proceeding to determine the tax exempt status of such property is pending under Section 119 or subsection (6) of Section 108 of this Act or is being conducted pursuant to Section 137 or Section 138 of this Act, he shall pay, prior to the collector's filing of his annual application for judgment and order of sale of delinquent lots and lands, all of the tax due, and each payment shall be accompanied by a writing, substantially in the following form:

Payment under protest.

Vol. No. . . . Item No. . . . (as the same appear on the General Tax Bill). Original amount of tax $. . . . Amount of

payment $. . . . This payment shall be applied to the taxes of all taxing bodies ratably, subject to refund of . . . . % of the tax, which is objected to on the ground (here set forth ground of objection) and is, accordingly, made under protest.

Name of taxpayer .....
Address .....

The person protesting shall present to the collector 2 copies of the written protest signed by himself. The collector shall write or stamp the date of receiving the same upon the copies, and sign the same, one of which copies he shall retain and the other he shall deliver to the person making the payment under protest.

In counties having 1,000,000 or more inhabitants, and in other counties which have adopted the method provided for in Section 224.1, any such written protest, whether of all or any part of a real property tax, shall be presented to the Collector at the time of payment of the last installment of said tax and at no other time.

The person paying real estate taxes under protest shall appear in the next application for judgment and order of sale and object to the taxes in relation to which the protest is made, and upon his failure so to do, the protest shall be waived, and judgment and order of sale entered for any unpaid balance of such taxes.

When any such objection is filed in a county of fewer than 1,000,000 inhabitants, there shall also be filed a duplicate copy for the use of the State's Attorney and a triplicate copy for the use of the county clerk of such county. Any such objection or amendment thereto filed in a county of fewer than 1,000,000 inhabitants shall contain

on the first page thereof a listing of the tax levying units against which the objection is directed. Within 10 days thereafter the clerk of the circuit court shall deliver one copy to the State's Attorney and one copy to the county clerk, taking their receipts therefor. The county clerk shall, within 30 days from the last day for the filing of objections, notify the duly elected or appointed custodian of funds for each tax levying unit, whose tax monies may be affected by such objection, that such objection has been filed. Any amendment filed to such objection, except any amendment permitted to be made in open court during the course of a hearing on such objection, shall likewise be filed in triplicate, with the duplicate copy delivered to the State's Attorney and the triplicate copy delivered to the county clerk by the clerk of the circuit court as hereinabove provided in the case of original objections, and the State's Attorney shall within 10 days of receiving his copy of such amendment notify the duly elected or appointed custodian of funds for each tax levying unit whose tax monies may be affected by such amendment that such amendment has been filed. The State's Attorney shall also notify such custodian and the county clerk in writing of the date, time and place of any hearing before the court to be held upon such objection or amended objection not later than 4 days prior to the hearing thereon. The notices provided herein shall be by letter addressed to such custodian or the county clerk and may be mailed by regular mail, postage prepaid, postmarked within the 30 day period or the 10 day period, as the case may be, but not less than 4 days before a hearing.

In all counties, when the taxpayer appears and files objection, the court shall, after first determining that due

notice, if required, has been given to the tax levying unit, hear and determine the matter according to the right of the case and enter judgment for any part of the taxes, or order a refund of any part of the taxes, so paid under protest, with interest as provided herein. Appeals may be taken from such orders of the court as in other cases of objection to judgment and order of sale for taxes. Refunds, with interest as provided herein, shall be made by the collector in accordance with the final orders of the Property Tax Appeal Board or the court, and the amount of such refunds shall be paid out of the Protest Fund created by Section 192(a). Proceedings upon objections filed under this Section are subject to Section 194a.

Where any tax is paid in full and protested as herein provided before the delinquent taxes are transcribed into the tax judgment, sale, redemption and forfeiture record, and the taxpayer appears and files objection, the collector, within such time as may be fixed by the court, shall file a transcript from the tax warrant book showing the tax, and such transcript shall be an amendment to the tax judgment, sale, redemption and forfeiture record, and the case shall proceed as if the tax had been originally transcribed therein.

In the payment of any installment of real property taxes, the collector shall first apply such payments to interest (including interest added upon forfeiture to real property taxes) and costs, and after the payment of interest and costs such payments shall be applied upon the total tax upon which the payments are made.

No protest shall prevent or be a cause of delay in the distribution of tax collections among the taxing bodies of

any taxes collected which were not paid under protest. The collector shall withhold from distribution the lesser of: (a) the total amount of taxes paid under protest; or (b) an amount equal to the average annual tax objections sustained over the preceding 5 year period; or (c) 1/2% of the total taxes collected. Such amounts paid under protest or withheld from distribution shall be deposited by the collector in interest bearing accounts as provided in Section 192(a). If the final order of the Property Tax Appeal Board or of a court results in a refund to the taxpayer, interest from the date of payment under protest or from the date payment is due, whichever is later, to the date of refund shall also be paid to the taxpayer at the rate of 5% per annum. If the final order of the Property Tax Appeal Board or of a court results in a payment to the taxing districts of all or a part of the taxes paid under protest or withheld, any excess interest earned on such funds withheld from distribution shall be paid into the county treasury. In the event refunds ordered by the Property Tax Appeal Board or a court exceed the funds available in the Protest Fund provided in Section 192(a), the refunds of principal and interest shall be paid out of the first funds collected for such taxing district in the following taxable year.

(b) Within 15 days after the receipt of a request by a taxing district, the collector shall issue a certificate (hereinafter referred to as the "Certificate") to the governing body or corporate authorities of such taxing district setting forth (i) the aggregate amount of all taxes levied upon pollution control facilities, as defined under Section 21a-2, by and distributed to such taxing district prior to the date of the issuance of the Certificate that have been

held illegal by the final order of a court, or any board, body or entity having jurisdiction, because such pollution control facilities within the taxing district were incorrectly assessed or valued, based upon the method of valuation provided for under Section 21a-3, at the time taxes levied by or on behalf of such taxing district were extended (hereinafter referred to as the "illegal taxes"), (ii) the aggregate amount of the illegal taxes required to be deducted from the taxes of such taxing district during the same calendar year as, and during the 2 full calendar years immediately following, the date of the issuance of the Certificate (hereinafter referred to as the "taxes to be deducted"), and (iii) the aggregate amount of the illegal taxes deducted from the taxes of such taxing district during the same calendar year as, and during the 2 full calendar years immediately preceding, the date of the issuance of the Certificate (hereinafter referred to as the "deducted taxes").

Prior to January 1, 1988, whenever and as often as the current aggregate amount of the taxes to be deducted and the deducted taxes set forth in the Certificate equals or exceeds $10,000, such taxing district may issue its full faith and credit Bonds as provided for in this subsection (b) (hereinafter referred to as the "Bonds") for the purpose of (i) reducing the amount of the taxes to be deducted by depositing proceeds of the Bonds with the collector, (ii) reimbursing its treasury for all or a portion of the deducted taxes for which no Bonds were previously issued, (iii) paying the expenses of issuing the Bonds, (iv) paying interest on the Bonds, or (v) any combination thereof. In addition thereto, Bonds may be issued for the purpose of refunding, whether in advance

of or at maturity or prior redemption and whether by exchange, payment or establishment of an irrevocable escrow, any Bonds. The principal amount of such refunding Bonds may exceed the principal amount of the Bonds being refunded. Any Certificate issued not more than 6 months prior to the issuance of the Bonds shall be conclusive evidence of all the facts set forth therein and any error or inaccuracy therein or any failure of future events to conform to the Certificate shall not affect the validity of the Bonds in any manner.

For any of the purposes specified in the preceding paragraph, the governing body or corporate authorities of such taxing district may borrow money and issue Bonds as evidence thereof without referendum. The Bonds shall not count as indebtedness, or act as a limitation on the amount of indebtedness permitted to be issued by any taxing district, under the provisions of any law regarding limitations on indebtedness. The Bonds shall bear interest at a rate or rates authorized by "An Act to authorize public corporations to issue bonds, other evidences of indebtedness and tax anticipation warrants subject to interest rate limitations set forth therein", approved May 26, 1970, as now or hereafter amended,[1] shall mature within 20 years after the date of the issuance thereof and shall be sold at a price of not less than par plus accrued interest to the date of delivery of the Bonds. The denomination of the Bonds and the manner of sale shall be determined by the taxing district.

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[1] 30 ILCS 305/0.01 et seq.

In order to authorize and issue the Bonds, the governing body or corporate authorities of the taxing district shall adopt an ordinance or resolution fixing the amount of Bonds, the date thereof, the maturities thereof, the rate or rates of interest thereof, the place or places of payment, the manner of execution and the denomination or denominations thereof and providing for the levy and collection of a direct annual tax upon all the taxable property in the taxing district sufficient to pay the principal and interest on the Bonds to maturity. Notwithstanding the provisions of any other law to the contrary, such ordinance or resolution shall not be required to be published and shall be effective immediately upon passage and approval. Upon the filing in the office of the county clerk of each county in which any portion of the taxing district is located of a certified copy of such ordinance or resolution, each such county clerk shall extend the tax therefor in addition to and in excess of all other taxes heretofore or hereafter authorized to be levied by or on behalf of such taxing district.

This subsection (b) is cumulative and constitutes complete authority for the issuance of the Bonds notwithstanding any other statute or law to the contrary.

This subsection (b) does not apply to taxing districts located entirely within a county having 3,000,000 or more inhabitants.

(c) Prior to January 1, 1988, taxing districts, may levy a tax each year in an amount not exceeding the lesser of (1) 0.05% of the value, as equalized or assessed by the Department, of the taxable property in the taxing district, or (2) the current aggregate amount of the taxes

to be deducted and the deducted taxes set forth in the Certificate minus the aggregate principal amounts of Bonds issued by the taxing district.

The ordinance or resolution levying such tax shall be filed with the county clerk of each county in which any portion of the taxing district is located. Such tax shall be levied and collected, except as otherwise provided in this subsection (c), in like manner as the general taxes of the taxing district and shall be in addition to the maximum of all other taxes now or hereafter to be levied by or on behalf of the taxing district.

The aggregate amount of such tax shall reduce the amount of Bonds authorized to be issued by such taxing district.

This subsection (c) does not apply to taxing districts located entirely within a county having 3,000,000 or more inhabitants.

200/8-40. Applicability of Administrative Review Law

§ 8-40. Applicability of Administrative review Law. The circuit court for the county in which a property assessed, or some part of such property, is situated may review all final administrative decisions of the Department in administering this Code. The Administrative review Law[1] and the rules adopted under it apply to and

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[1] 735 ILCS 5/3-101 et seq.

govern all proceedings for the judicial review of final administrative decisions of the Department under Section 8-35. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure,[2] and includes assessment ratios and percentages for equalization of assessments determined by the Department under sections 17-5 through 17-30. Any review of assessment ratios and percentages for equalization of assessments under the Administrative Review Law shall not delay the computation, mailing or payment of tax bills. If a final court decision holding the Department's ratios or percentages in error comes after the mailing of the tax bills, an adjustment shall be made on all bills in the assessment district in the first tax billing following the decisions to credit taxpayers with any payments which may have exceeded the maximum tax rate in rate-limited levies of non-home rule taxing units. Service upon the Director or the Assistant Director of the Department of summons issued in an action to review a final administrative decision of the Department shall be service upon the Department.

Appeals from all final orders and judgments entered by the circuit court upon review of the Department's determination in any case shall be taken as in other civil cases.

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[2] 735 ILCS 5/3-101.

DIVISION 4. VALUATION PROCEDURES

200/9-145. Statutory level of assessment

§ 9-145. Statutory level of assessment. Except in counties with more than 200,000 inhabitants which classify property for purposes of taxation, property shall be valued as follows:

(a) Each tract or lot of property shall be valued at 33 1/3% of its fair cash value.

(b) Each taxable leasehold estate shall be valued at 33 1/3% of its fair cash value.

(c) Each building or structure which is located on the right of way of any canal, railroad or other company leased or granted to another company or person for a term of years, shall be valued at 33 1/3% of its fair cash value.

(d) Any property on which there is a coal or other mine, or stone or other quarry, shall be valued at 33 1/3% of its fair cash value. Oil, gas and other minerals, except coal, shall have value and be assessed separately at 33 1/3% of the fair cash value of such oil, gas and other minerals. Coal shall be assessed separately at 33 1/3% of the coal reserve economic value, as provided in sections 10-170 through 10-200.

(e) In the assessment of property encumbered by public easement, any depreciation occasioned by such easement shall be deducted in the valuation of such property. Any property dedicated as a nature preserve under

the "Illinois Natural Areas preserve Act, for the purposes of this paragraph, is encumbered by a public easement and shall be depreciated for assessment purposes to a level at which its valuation shall be $1 per acre or portion thereof.

This Section is subject to and modified by Sections 10-110 through 10-140 and 11-5 through 11-65.

200/9-155. Valuation in general assessment years

§ 9-155. Valuation in general assessment years. On or before June 1 in each general assessment year in all counties with less than 3,000,000 inhabitants, and as soon as he or she reasonably can in each general assessment year in counties with 3,000,000 or more inhabitants, or if any such county is divided into assessment districts as provided in Sections 9-215 through 9-225, as soon as he or she reasonably can in each general assessment year in those districts, the assessor, in person or by deputy, shall actually view and determine as near as practicable the value of each property listed for taxation as of January 1 of that year, or as provided in Section 9-180, and assess the property at 33⅓% of its fair cash value, or in accordance with Section 10-110 through 10-140 and 10-170 through 10-200, or in accordance with a county ordinance adopted under Section 4 of Article IX of the Constitution of Illinois. The assessor or deputy shall set down, in the

books furnished for that purpose the assessed valuation of properties in one column, the assessed value of improvements in another, and the total valuation in a separate column.

200/9-205. Equalization

§ 9-205. Equalization. When deemed necessary to equalize assessments between or within townships or between classes of property, or when deemed necessary to raise or lower assessments within a county or any part thereof to the level prescribed by law, changes in individual assessments may be made by a township assessor or chief county assessment officer, under Section 9-75, by application of a percentage increase or decrease to each assessment.

200/9-210. Equalization by chief county assessment officer; counties of less than 3,000.000

§ 9-210. Equalization by chief county assessment officer; counties of less than 3,000,000. The chief county assessment officer in a county with less than 3,000,000 inhabitants shall act as an equalizing authority for each county in which he or she serves. The officer shall examine the assessments in the county and shall equalize the assessments by increasing or reducing the entire assessment of property in the county or any area therein or of any class of property, so that the assessments will be at

33 1/3% of fair cash value. The equalization process and analysis described in this Section shall apply to all property except farm and coal properties assessed under Sections 10-110 through 10-140 and 10-170 through 10-200.

For each township or assessment district in the county, the supervisor of assessments shall annually determine the percentage relationship between the estimated 33 1/3% of the fair cash value of the property and the assessed valuations at which the property is listed for each township, multi-township or assessment district. To make this analysis, he or she shall use property transfers, property appraisals, and other means as he or she deems proper and reasonable.

With the ratio determined for each township or assessment district, the supervisor of assessments shall then determine the percentage to be added to or deducted from the aggregate assessments in each township or assessment district, other than property assessed under Sections 10-110 through 10-140 and 10-170 through 10-200, in order to produce a ratio of assessed value to fair cash value of 33 1/3%. That percentage shall be issued as an equalization factor for each township or assessment district within each county served by the chief county assessment officer. The assessment officer shall then change the assessment of each parcel of property by application of the equalization factor.

200/9-215. General assessment years; counties of less than 3,000,000

§ 9-215. General assessment years; counties of less than 3,000,000. Except as provided in Sections 9-220 and 9-225, in counties having the township form of government and with less than 3,000,000 inhabitants, the general assessment years shall be 1995 and every fourth year thereafter. In counties having the commission form of government and less than 3,000,000 inhabitants, the general assessment years shall be 1994 and every fourth year thereafter.

200/12-10. Publication of assessments; counties of less than 3,000,000

§ 12-10. Publication of assessments; counties of less than 3,000,000. In counties with less than 3,000,000 inhabitants, as soon as the chief county assessment officer has completed the assessment in the county or in the assessment district, he or she shall, in each year of a general assessment, publish for the county or assessment district a complete list of the assessment, by townships if so organized. In years other than years of a general assessment, the chief county assessment officer shall publish a list of property for which assessments have been added or changed since the preceding assessment, together with the amounts of the assessments, except that publication of individual assessment changes shall not be required if the changes result from equalization by the supervisor of assessments under Section 9-210, or Section 10-200, in

which case the list shall include a general statement indicating that assessments have been changed because of the application of an equalization factor and shall set forth the percentage of increase or decrease represented by the factor. The publication shall be made on or before December 31 of that year, and shall be printed in some public newspaper or newspapers published in the county. In every township or assessment district in which there is published one or more newspapers of general circulation, the list of that township shall be published in one of the newspapers.

At the top of the list of assessments there shall be a notice in substantially the following form printed in type no smaller than eleven point:

"NOTICE TO TAXPAYERS

Median Level of Assessment – (insert here the median level of assessment for the assessment district)

Your property is to be assessed at the above listed median level of assessment for the assessment district. You may check the accuracy of your assessment by dividing your assessment by the median level of assessment. The resulting value should equal the estimated fair cash value of your property. If the resulting value is greater than the estimated fair cash value of your property, you may be over-assessed. If the resulting value is less than the fair cash value of your property, you may be under-assessed. You may appeal your assessment to the Board of Review."

The newspaper shall furnish to the local assessment officers as many copies of the paper containing the assessment list as they may require.

200/12-30. Mailed notice of changed assessments; counties of less than 3,000,000

§ 12-30. Mailed notice of changed assessments; counties of less than 3,000,000. In every county with less than 3,000,000 inhabitants, in addition to the publication of the list of assessments in each year of a general assessment and of the list of property for which assessments have been added or changed, as provided above, a notice shall be mailed by the chief county assessment officer to each taxpayer whose assessment has been changed since the last preceding assessment, using the address as it appears on the assessor's records, except in the case of changes caused by a change in the county equalization factor by the Department or in the case of changes resulting from equalization by the supervisor of assessments under Section 9-210, during any year such change is made. The notice may, but need not be, sent by a township assessor. The notice shall include the median level of assessment in the assessment district (as determined by the most recent 3 year assessment to sales ratio study adjusted to take into account any changes in assessment levels since the data for the studies were collected), the previous year's assessed value after board of review equalization, current assessed value and, in bold type, a notice of possible eligibility for a homestead improvement exemption as provided in Section 15-180.

The notice shall include a statement in substantially the following form:

"NOTICE TO TAXPAYER

Your property is to be assessed at the median level of assessment for your assessment district. You may check the accuracy of your assessment by dividing your assessment by the median level of assessment for your assessment district. If the resulting value is greater than the estimated fair cash value of your property, you may be over-assessed. If the resulting value is less than the estimated fair cash value of your property, you may be under-assessed. You may appeal your assessment to the Board of Review in the manner described elsewhere in this notice."

The notice shall contain a brief explanation of the relationship between the assessment and the tax bill (including an explanation of the equalization factors) and an explanation that the assessment stated for the preceding year is the assessment after equalization by the board of review in the preceding year, and shall set forth the procedures and time limits for appealing assessments and that assessments of property, other than farm land and coal, are required by law to be 33⅓% of value. Where practicable, the notice shall include the reason for any increase in the property's valuation. The notice must also state the name and price per copy by mail of the newspaper in which the list of assessments will be published. The form and manner of providing the information and

explanations required to be in the notice shall be prescribed by the Department.

200/12-40. Notice provisions; equalization by board of review

§ 12-40. Notice provisions; equalization by board of review. The assessment of any class of property or of any township or multi-township or part thereof, or any portion of the county, shall not be increased by an equalization factor applied by a board of review until the board has made one publication of notice in a newspaper of general circulation published in the county, of such proposed increase and has given an opportunity to be heard, within 20 days of the publication date, to the owners of the property affected or any one representing them, and other citizens of the territory. The assessor or chief county assessment officer shall have like opportunity to be heard thereon, except where such action is taken in individual cases upon complaint. The board shall hear any person, upon request, in opposition to a proposed reduction in the assessment of any person or territory.

200/12-50. Mailed notice to taxpayer after change by board of review

§ 12-50. Mailed notice to taxpayer after change by board of review. If final board of review action regarding any property, including equalization under Section 16-60

or Section 16-65 results in an increased or decreased assessment, the board of review shall mail a notice to the taxpayer, at his or her address as it appears in the assessment records, whose property is affected by such action, and in the case of a complaint filed under Section 16-25, to the taxing body filing the complaint. A copy shall be given to the assessor or supervisor of assessments if his or her assessment was reversed or modified by the board of review. Written notice shall also be given to any taxpayer who filed a complaint in writing to the Board of Review and whose assessment was not changed. The notice shall set forth the assessed value prior to board of review action; the assessed value after final board of review action but prior to any equalization; and the assessed value as equalized by the board of review, if the board of review equalizes. This notice shall state that the value as certified to the county clerk by the board of review will be the locally assessed value of the property for that year and each succeeding year, unless revised in a succeeding year in the manner provided in this Code. The written notice shall also set forth specifically the facts upon which the board's decision is based and shall also contain the following statement: "You may appeal this decision to the Property Tax Appeal Board by filing a petition for review with the Property Tax Appeal Board within 30 days after this notice is mailed to you or your agent, or is personally served upon you or your agent."

200/16-55. Complaints

§ 16-55. Complaints. On written complaint that any property is overassessed or underassessed, the board shall review the assessment, and correct it, as appears to be just, but in no case shall the property be assessed at a higher percentage of fair cash value than other property in the assessment district prior to equalization by the board or the Department. A complaint to affect the assessment for the current year shall be filed on or before the 10th day of August in counties with less than 150,000 inhabitants and on or before the 10th day of September in counties with 150,000 or more but less than 3,000,000 inhabitants, except if the assessment books containing the assessment complained of are not filed with the board of review by the 10th day of July in a county with fewer than 150,000 inhabitants or by the 10th day of August in a county with 150,000 or more but less than 3,000,000 inhabitants, then the complaint shall be filed on or before 30 calendar days after the date of publication of the assessment list under Section 12-10. The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department. No assessment shall be increased until the person to be affected has been notified and given an opportunity to be

heard, except as provided below. Before making any reduction in assessments of its own motion, the board of review shall give notice to the assessor or chief county assessment officer who certified the assessment, and give the assessor or chief county assessment officer an opportunity to be heard thereon. All complaints of errors in assessments of property shall be in writing, and shall be filed by the complaining party with the board of review, in duplicate. The duplicate shall be filed by the board of review with the assessor or chief county assessment officer who certified the assessment. In all cases where a change in assessed valuation of $100,000 or more is sought, the board of review shall also serve a copy of the petition on all taxing districts as shown on the last available tax bill at least 14 days prior to the hearing on the complaint. All taxing districts shall have an opportunity to be heard on the complaint. Complaints shall be classified by townships or taxing districts by the clerk of the board of review. All classes of complaints shall be docketed numerically, each in its own class, in the order in which they are presented, in books kept for that purpose, which books shall be open to public inspection. Complaints shall be considered by townships or taxing districts until all complaints have been heard and passed upon by the board.

200/16-60. Equalization within counties – Publication and hearing

§ 16-60. Equalization within counties – Publication and hearing. After notice and hearing as required by

Section 12-40, the board of review may increase or reduce the entire assessment, or the assessment of any class included therein, if, in its opinion, the assessment has not been made upon the proper basis. The board may also equalize the assessment in any multi-township, or township, or part thereof, or any portion of the county.

200/16-65. Equalization process

§ 16-65. Equalization process. The board of review shall act as an equalizing authority, if after equalization by the supervisor of assessments the equalized assessed value of property in the county is not 33 1/3% of the total fair cash value. The board shall, after notice and hearing as required by Section 12-40, lower or raise the total assessed value of property in any assessment district within the county so that the property, other than farm and coal property assessed under Sections 10-110 through 10-140 and Sections 10-170 through 10-200, will be assessed at 33 1/3% of its fair cash value.

For each assessment district of the county, the board of review shall annually determine the percentage relationship between the valuations at which property other than farm and coal property is listed and the estimated 33 1/3% of the fair cash value of such property. To make this analysis, the board shall use at least 25 property transfers, or a combination of at least 25 property transfers and property appraisals, such information as may be submitted by interested taxing bodies, or any other means as it deems proper and reasonable. If there are not

25 property transfers available, or if these 25 property transfers do not represent a fair sample of the types of properties and their proportional distribution in the assessment district, the board shall select a random sample of properties of a number necessary to provide a combination of at least 25 property transfers and property appraisals as much as possible representative of the entire assessment district, and provide for their appraisal. The township or multi-township assessor shall be notified of and participate in the deliberations and determinations.

With the ratio determined for each assessment district, the board shall ascertain the amount to be added or deducted from the aggregate assessment on property subject to local assessment jurisdiction, other than farm and coal property, to produce a ratio of assessed value to 33 1/3% of the fair cash value equivalent to 100%. However, in determining the amount to be added to the aggregate assessment on property subject to local jurisdiction in order to produce a ratio of assessed value to 33 1/3% of the fair cash value equivalent to 100%, the board shall not, in any one year, increase or decrease the aggregate assessment of any assessment district by more than 25% of the equalized valuation of the district for the previous year, except that additions, deletions or depletions to the taxable property shall be excluded in computing the 25% limitation. The board shall complete the equalization by the date prescribed in Section 16-35 for the board's adjournment, and, within 10 days thereafter, shall report the results of its work under this Section to the Department. At least 30 days prior to its adjournment, the board shall publish a notice declaring whether it intends to

equalize assessments as provided in this Section. The notice shall be published in a newspaper of general circulation in the county. If the board fails to report to the Department within the required time, or if the report discloses that the board has failed to make a proper and adequate equalization of assessments, the Department shall direct, determine, and supervise the assessment so that all assessments of property are relatively just and equal as provided in Section 8-5.

DIVISION 4. PROPERTY TAX APPEAL BOARD

200/16-160. Property Tax Appeal Board – Process

§ 16-160. Property Tax Appeal Board – Process. In any county other than a county with 3,000,000 or more inhabitants, any taxpayer dissatisfied with the decision of a board of review as such decision pertains to the assessment of his or her property for taxation purposes, or any taxing body that has an interest in the decision of the board of review on an assessment made by any local assessment officer, may, within 30 days after the date of written notice of the decision of the board of review, appeal the decision to the Property Tax Appeal Board for review. In any appeal where the board of review has given written notice of the hearing to the taxpayer 30 days before the hearing, failure to appear at the board of review hearing shall be grounds for dismissal of the appeal unless a continuance is granted to the taxpayer. If an appeal is dismissed for failure to appear at a board of review hearing, the Property Tax Appeal Board shall have

no jurisdiction to hear any subsequent appeal on that taxpayer's complaint. Such taxpayer or taxing body, hereinafter called the appellant, shall file a petition with the clerk of the Property Tax Appeal Board, setting forth the facts upon which he or she bases the objection, together with a statement of the contentions of law which he or she desires to raise, and the relief requested. If a petition is filed by a taxpayer, the taxpayer is precluded from filing objections based upon valuation, as may otherwise be permitted by Sections 21-175 and 23-5. However, any taxpayer not satisfied with the decision of the board of review as such decision pertains to the assessment of his or her property need not appeal the decision to the Property Tax Appeal Board before seeking relief in the courts.

200/16-180. Procedure for determination of correct assessment

§ 16-180. Procedure for determination of correct assessment. The Property Tax Appeal Board shall establish by rules an informal procedure for the determination of the correct assessment of property which is the subject of an appeal. The procedure, to the extent that the Board considers practicable, shall eliminate formal rules of pleading, practice and evidence, and except for any reasonable filing fee determined by the Board, may provide that costs shall be in the discretion of the Board. A copy of the appellant's petition shall be mailed by the clerk of the Property Tax Appeal Board to the board of review whose decision is being appealed. In all cases where a change in assessed valuation of $100,000 or more is

sought, the board of review shall serve a copy of the petition on all taxing districts as shown on the last available tax bill. The chairman of the Property Tax Appeal Board shall provide for the speedy hearing of all such appeals. All appeals shall be considered de novo. Where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalizing factor assigned to all property or to a class of property by the board of review, the Property Tax Appeal Board shall not grant a reduction in assessment greater that the amount that was added as the result of the equalizing factor.

200/16-185. Decisions

§ 16-185. Decisions. The Board shall make a decision in each appeal or case appealed to it, and the decision shall be based upon equity and the weight of evidence and not upon constructive fraud, and shall be binding upon appellant and officials of government. The extension of taxes on any assessment so appealed shall not be delayed by any proceeding before the Board, and, in case the assessment is altered by the Board, any taxes extended upon the unauthorized assessment or part thereof shall be abated, or, if already paid, shall be refunded with interest as provided in Section 23-20.

The decision or order of the Property Tax Appeal Board in any such appeal, shall, within 10 days thereafter, be certified at no charge to the appellant and to the proper authorities, including the board of review whose

decision was appealed, the county clerk who extends taxes upon the assessment in question, and the county collector who collects property taxes upon such assessment.

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review or after adjournment of the session of the board of review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board.

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

200/16-195. Review of decisions

§ 16-195. Review of decisions. Final administrative decisions of the Property Tax Appeal Board are subject to

review under the provisions of the Administrative Review Law, except that in every case where a change in assessed valuation of $300,000 or more was sought, that review shall be afforded directly in the Appellate Court for the district in which the property involved in the Board's decision is situated, and not in the circuit court. The Property Tax Appeal Board shall certify the record of its proceedings only if the taxpayer or other entity seeking review under the Administrative Review Law pays to it for each page of legal size or smaller, the sum of 75¢ per page for testimony taken before the Board and 25¢ per page for all other matters contained in the record, and for any page larger than legal size the sum of $1, except that these charges may be waived when the Board is satisfied that the aggrieved party cannot afford to pay such charges. There shall be no charge to the taxpayer or other entity for certification by the Property Tax Appeal Board of any pages of the record which are furnished for inclusion in the record by the taxpayer or other entity seeking review. If payment for the record is not made by the taxpayer or other entity within 30 days after notice from the Board or the Attorney General of the cost thereof, the court in which the proceeding is pending, on motion of the Board, shall dismiss the complaint.

200/17-5. Equalization among counties

§ 17-5. Equalization among counties. The Department shall act as an equalizing authority. It shall examine the abstracts of property assessed for taxation in the counties and in the assessment districts in counties having assessment districts, as returned by the county clerks, and shall equalize the assessments between counties as provided in this Code. Except as hereinafter provided, the Department shall lower or raise the total assessed value of property in any county as returned by the county clerk, other than property assessed under Sections 10-110 through 10-140 and 10-170 through 10-200, so that the property will be assessed at 33⅓% of its fair cash value.

The Department shall annually determine the percentage relationship, for each county of the State, between the valuations at which locally-assessed property, other than property assessed under the Sections 10-110 through 10-140 and 10-170 through 10-200, is listed by assessors and revised by boards of review or boards of appeal, and the estimated 33⅓% of the fair cash value of the property. To make this analysis, the Department shall use property transfers, property appraisals, and other means as it deems proper and reasonable.

With the ratio determined for each county, the Department shall then determine the percentage to be added to or deducted from the aggregate reviewed assessment on property subject to local assessment jurisdiction, other than property assessed under the Sections cited above, to produce a ratio of assessed value to 33⅓% of the fair cash value equivalent to 100%.

If the Department determines that there are substantial differences in the level of assessment among different townships in the same county, it shall, upon the request of the county executive or, in counties not having an elected county executive, of the county board under a resolution adopted by the board, apply separate township equalization factors determined by the Department, in lieu of a single equalization factor for the entire county, but this provision does not apply within any county which elects a county assessor under Sections 3-45 or 3-50.

200/23-10. Tax objections and copies

§ 23-10. Tax objections and copies. Once a protest has been filed with the county collector, in all counties the person paying under protest shall appear in the next application for judgment and order of sale and file an objection. Upon failure to do so, the protest shall be waived, and judgment and order of sale entered for any unpaid balance of taxes.

When any tax protest is filed with the county collector and an objection is filed with the court in a county with less than 3,000,000 inhabitants, the person paying under protest shall file 3 copies of the objection with the clerk of the circuit court. Any objection or amendment thereto shall contain on the first page a listing of the taxing districts against which the objection is directed. Within 10 days after the objection is filed, the clerk of the circuit court shall deliver one copy to the State's Attorney

and one copy to the county clerk, taking their receipts therefor. The county clerk shall, within 30 days from the last day for the filing of objections, notify the duly elected or appointed custodian of funds for each taxing district that may be affected by the objection, stating that an objection has been filed. Any amendment to an objection, except any amendment permitted to be made in open court during the course of a hearing on the objection, shall also be filed in triplicate, with one copy delivered to the State's Attorney and one copy delivered to the county clerk by the clerk of the circuit court. The State's Attorney shall within 10 days of receiving his or her copy of the amendment notify the duly elected or appointed custodian of funds for each taxing district whose tax monies may be affected by the amendment, stating that the amendment has been filed. The State's Attorney shall also notify the custodian and the county clerk in writing of the date, time and place of any hearing before the court to be held upon the objection or amended objection not later than 4 days prior to the hearing. The notices provided in this Section shall be by letter addressed to the custodian or the county clerk and may be mailed by regular mail, postage prepaid, postmarked within the required period, but not less than 4 days before a hearing.

§ 1910.30 Petitions – Application.

a) Petitions for appeal must be filed within 30 days after the postmark date or personal service date of written notice of the decision of the Board of Review, or the postmark date or personal service date of the written notice of the application of final, adopted township multipliers by the Board of Review. Petitions sent by mail shall be considered as filed on the date postmarked.

* * *

PUBLIC ACT 83-1015.

REVENUE ACT – COUNTIES LESS THAN 2,000,000 – ASSESSMENT NOTICES – INSTRUCTIONS HOW TO CHECK ACCURACY MUST BE INCLUDED.

(Senate Bill No. 97. Certified December 28, 1983.)

PUBLIC ACT TEXT

AN ACT to amend Section 103 of the "Revenue Act of 1939", filed May 17, 1939, as amended.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Section 103 of the "Revenue Act of 1939", filed May 17, 1939, as amended, is amended to read as follows:

(Ch. 120, par. 584)

Sec. 103. In counties containing less than 2,000,000 inhabitants, as soon as the supervisor of assessments or board of assessors, as the case may be, has completed the assessment in the county or in the assessment district he or it shall, in each year of a quadrennial assessment of real property, publish for such county or assessment district a full and complete list of the assessment of real and personal property, by townships if the county be so organized. In years other than years of a quadrennial assessment of real property, the assessor, supervisor of assessments or board of assessors, as the case may be, shall publish the assessment of personal property in full and a list of real estate for which assessments have been added or changed since the last preceding assessment, together with the amounts of the assessments on such

real estate. Such publication shall be made on or before December 31 of that year in all counties with less than 2,000,000 inhabitants, and shall be printed in some public newspaper or newspapers published in the county; or shall be mailed to every person in that township, or in counties not under township organization, in that county paying taxes upon personal property. In every county containing less than 2,000,000 inhabitants, in addition to the publication of the list of assessments of real property in each year of a quadrennial assessment of real property and of the list of real estate for which assessments have been added or changed, as provided above, a notice shall be mailed by the ~~township assessor~~, county assessor, *or* supervisor of assessments ~~or board of assessors~~, as the case may be, to each taxpayer at his address as it appears on the assessor's records ~~as to whose real property the assessment has been changed since the last preceding assessment, except in the case of changes caused by a change in the county equalization factor by the Department, during any year such change is made~~. *Such notice may, but need not be, sent by a township assessor.* Such notice shall include the median level of assessment in the assessment district (as determined by the most recent single year assessment to sales ratio study *adjusted to take into account any changes in assessment levels implemented since the data for such studies were collected*), the previous year's *assessed value after board of review equalization* and current assessed value.

The notice shall include a statement in substantially the following form:

"NOTICE TO TAXPAYER

Your property is to be assessed at the median level of assessment for your assessment district. You may check the accuracy of your assessment by the following procedure: Divide your assessment by the median level of assessment for your assessment district. If the resulting value is greater than the estimated fair cash value of your property, you may be over-assessed. If the resulting value is less than the estimated fair cash value of your property, you may be under-assessed. You may appeal your assessment to the Board of Review in the manner described elsewhere in this notice."

Such notice shall contain a brief explanation of the relationship between the assessment and the tax bill (including an explanation of the equalization factors) *and an explanation that the assessment stated for the preceding year is after equalization by the board of review in the preceding year* and shall set forth the procedures and time limits for appealing assessments and that assessments of real property, other than farm land, are required by law to be 33⅓% of value. Where practicable, such notice shall include the reason for any increase in the property's valuation. Such notice must also state the name and price per copy by mail of the newspaper in which the list of assessments will be published. The form and manner of providing the information and explanations required to be in such notice shall be prescribed by the Department. In every township or assessment district in which there is published one or more newspapers of general circulation, the list of such township shall be published in one of the newspapers.

At the top of the list of assessments there shall be a notice in substantially the following form printed in type no smaller than eleven point:

"NOTICE TO TAXPAYERS

Median Level of Assessment – (insert here the median level of assessment for the assessment district)

Your property is to be assessed at the above listed median level of assessment for the assessment district. You may check the accuracy of your assessment by the following procedure: Divide your assessment by the median level of assessment. The resulting value should equal the estimated fair cash value of your property. If the resulting value is greater than the estimated fair cash value of your property, you may be overassessed. If the resulting value is less than the fair cash value of your property, you may be underassessed. You may appeal your assessment to the Board of Review."

The newspaper shall be entitled to a fee of 30¢ per column line for publishing the assessment list and shall furnish to the local assessment officers as many copies of the paper containing the assessment list as he or they may require.

Section 2. This Act takes effect January 1, 1984, and shall first apply to taxes payable for assessment year 1984.

PUBLIC ACT HISTORY

Passed in the General Assembly June 28, 1983.

Governor returns bill to General Assembly with recommendations for change (Amendatory Veto of September 23, 1983) October 5, 1983.

General Assembly accepts change November 1, 1983.
Certified by the Governor December 28, 1983.
Effective January 1, 1984.

PUBLIC ACT 83-1239.

REVENUE – EQUALIZATION TAX NOTICE.

(House Bill No. 2832. Approved August 1, 1984.)

PUBLIC ACT TEXT

AN ACT to amend Sections 95a, 103 and 108d of the "Revenue Act of 1939", filed May 17, 1939, as amended, and to add Section 3a.2 thereto.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Sections 95a, 103 and 108d of the "Revenue Act of 1939", filed May 17, 1939, as amended, are amended, and Section 3a.2 is added thereto, the added and amended Sections to read as follows:

(Ch. 120, new par. 484a.2)

Sec. 3a.2. Beginning on January 1, 1985, in counties of less than 3,000,000 population, any person filing a petition for

nomination to be elected supervisor of assessments or who is a candidate for or who is elected to such office shall have the same qualifications set forth in Section 3a of this Act. This Section shall not apply to any person who has been elected to the office of supervisor of assessments prior to January 1, 1985.

(Ch. 120, par. 576a)

Sec. 95a. The supervisor of assessments shall act as an equalizing authority for each county in which he serves. He shall examine the assessments for taxation in the county and shall equalize the assessments by increasing or reducing the entire assessment of real property in the county or any area therein or of any class of property, other than property assessed under Section 20e, if the assessments have not been made on the proper basis, so that such assessments will be at 33 1/3% of fair cash value.

By means of comparison of assessed valuations and the estimated 33 1/3% of the fair cash values established through the analysis of property transfers, property appraisals, and such other means as he deems proper and reasonable, the supervisor of assessments shall annually determine the percentage relationship, for each township or assessment district within each county he serves, between the valuations at which property, other than property assessed pursuant to Section 20e of this Act, is listed by the township or multi-township assessor and the estimated 33 1/3% of the fair cash value of such property.

With the ratio so determined for each township or assessment district, the supervisor of assessments shall then determine the percentage to be added to or

deducted from the aggregate assessments in each township or assessment district, other than property assessed pursuant to Section 20e of this Act, in order to produce a ratio of assessed value to 33⅓% of the fair cash value equivalent to 100%. Such percentage shall be issued as a multiplier for each township or assessment district within each county served by the supervisor of assessments. The supervisor of assessment shall change the assessment of each parcel of real property in accordance with the provisions of *this Section* ~~Sections 46 and 46a of this Act~~ by application of the multiplier.

(Ch. 120, par. 584)

Sec. 103. In counties containing less than 2,000,000 inhabitants, as soon as the supervisor of assessments or board of assessors, as the case may be, has completed the assessment in the county or in the assessment district he or it shall, in each year of a quadrennial assessment of real property, publish for such county or assessment district a full and complete list of the assessment of real property, by townships if the county be so organized. In years other than years of a quadrennial assessment of real property, the assessor, supervisor of assessments or board of assessors, as the case may be, shall publish a list of real estate for which assessments have been added or changed since the last preceding assessment, together with the amounts of the assessments on such real estate, *except that publication of individual assessment changes shall not be required if such changes result from equalization by the supervisor of assessments pursuant to Section 95a, in which case such list shall include a general statement indicating that assessments have been changed because of the application of an equalization factor and shall set forth the percentage of increase*

or decrease represented by such factor. Such publication shall be made on or before December 31 of that year in all counties with less than 2,000,000 inhabitants, and shall be printed in some public newspaper or newspapers published in the county. In every county containing less than 2,000,000 inhabitants, in addition to the publication of the list of assessments of real property in each year of a quadrennial assessment of real property and of the list of real estate for which assessments have been added or changed, as provided above, a notice shall be mailed by the county assessor or supervisor of assessments, as the case may be, to each taxpayer at his address as it appears on the assessor's records *as to whose real property the assessment has been changed since the last preceding assessment except in the case of changes caused by a change in the county equalization factor by the Department, during any year such change is made.* Such notice may, but need not be, sent by a township assessor. Such notice shall include the median level of assessment in the assessment district (as determined by the most recent single year assessment to sales ratio study adjusted to take into account any changes in assessment levels implemented since the data for such studies were collected), the previous year's assessed value after board of review equalization and current assessed value.

The notice shall include a statement in substantially the following form:

"NOTICE TO TAXPAYER

Your property is to be assessed at the median level of assessment for your assessment district. You may check

the accuracy of your assessment by the following procedure: Divide your assessment by the median level of assessment for your assessment district. If the resulting value is greater than the estimated fair cash value of your property, you may be over-assessed. If the resulting value is less than the estimated fair cash value of your property, you may be under-assessed. You may appeal your assessment to the Board of Review in the manner described elsewhere in this notice."

Such notice shall contain a brief explanation of the relationship between the assessment and the tax bill (including an explanation of the equalization factors) and an explanation that the assessment stated for the preceding year is after equalization by the board of review in the preceding year and shall set forth the procedures and time limits for appealing assessments and that assessments of real property, other than farm land, are required by law to be 33 1/3% of value. Where practicable, such notice shall include the reason for any increase in the property's valuation. Such notice must also state the name and price per copy by mail of the newspaper in which the list of assessments will be published. The form and manner of providing the information and explanations required to be in such notice shall be prescribed by the Department. Whenever the address of a taxpayer to whom such notice is to be mailed as provided above, as such address appears on the assessor's records, is the address of a mortgage lender, or in any event whenever such notice is mailed by the township assessor, supervisor of assessments or board of assessors to the taxpayer at or in care of the address of a mortgage lender, the mortgage lender – within 15 days of the mortgage

lender's receipt of such notice – shall mail a copy of the same to each mortgagor of the real property referred to in such notice at the last known address of each such mortgagor as shown on the records of the mortgage lender. As used in this Section: the term "mortgage lender" means any bank, savings and loan association, building and loan association or other institution, association, partnership, corporation or person that is engaged in this State in the business of making loans of moneys, or that regularly makes loans of moneys in this State, which loans are directly secured by mortgages, trust deeds in the nature of mortgages or other instruments in the nature of mortgages, which mortgages, trust deeds or other instruments constitute a lien upon real property situated in this State; and the term "mortgagor" means an owner of real property situated in a county of this State having less than 2,000,000 inhabitants who creates a lien against such property in favor of a mortgage lender by executing a mortgage, trust deed in the nature of a mortgage or other instrument in the nature of a mortgage covering such property. In every township or assessment district in which there is published one or more newspapers of general circulation, the list of such township shall be published in one of the newspapers.

At the top of the list of assessments there shall be a notice in substantially the following form printed in type no smaller than eleven point:

"NOTICE TO TAXPAYERS

Median Level of Assessment – (insert here the median level of assessment for the assessment district)

Your property is to be assessed at the above listed median level of assessment for the assessment district. You may check the accuracy of your assessment by the following procedure: Divide your assessment by the median level of assessment. The resulting value should equal the estimated fair cash value of your property. If the resulting value is greater than the estimated fair cash value of your property, you may be over-assessed. If the resulting value is less than the fair cash value of your property, you may be under-assessed. You may appeal your assessment to the Board of Review."

The newspaper shall be entitled to a fee of 30¢ per column line for publishing the assessment list and shall furnish to the local assessment officers as many copies of the paper containing the assessment list as he or they may require.

(Ch. 120, par. 589.4)

Sec. 108d. *If final board of review action regarding any parcel of real property, including equalization pursuant to Section 108a or paragraph 5 of Section 108 results in a revised assessment, the board of review shall mail a notice to the taxpayer, at his or her address as it appears in the assessment records, whose property is affected by such action. The notice shall set forth the assessed value prior to board of review action; the assessed value after final board of review action but prior to any equalization; and the assessed value as equalized by the board of review, if the board of review equalizes. This notice shall state that the* ~~If a board of review equal are assessments pursuant to paragraph (5) of Section 108 or pursuant to Section 108a, a notice shall be mailed by the clerk of the board to each taxpayer, at his or her address~~

~~as it appears on the assessment records, whose property is effected by such equalization. The notice shall state the assessed value of the property as equalized by the board of review and that such~~ value as *certified to the county clerk* ~~equalized~~ by the board of review will be the locally assessed value of the property for that year and each succeeding year, unless revised in a succeeding year in the manner provided in this Act.

Section 2. This Act takes effect upon becoming a law and shall be applicable to 1984 assessments and assessments in all subsequent years.

PUBLIC ACT HISTORY

Passed in the General Assembly June 25, 1984.
Approved August 1, 1984.
Effective August 1, 1984.

STATE OF ILLINOIS
83RD GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES
TRANSCRIPTION DEBATE

123rd Legislative Day May 23, 1984

Speaker Breslin: "The Gentleman has moved for the passage of House Bill 2832. And on that question, the Gentleman from Cook, Representative Cullerton."

Cullerton: "Yes. Representative, in 1983, we passed Legislation dealing with the notification procedures. Is that correct?"

Hastert: "That's correct."

Cullerton: "And then, what this Bill does is to cut back on those. And I think my question will be, do the notice provisions that you've allowed that to be . . . to remain, do they provide the taxpayers with information about their individual assessments?"

Hastert: "Representative, any notification process or publication process that was the law prior to 1983 is still in the law. In addition, any time a taxpayer's assessment is changed because of the rollover in multipliers or whatever, change in the County Board . . . Board of Review process, there is notice given. And that . . . All those provisions stay in the Law. The only change is, is the publication, the annual publication, whether assessments change or not and that was an addition put on by the Department of Revenue and that we're trying to clean up in this piece of Legislation."

Cullerton: "Who is the Sponsor of the Legislation in '83?"

Hastert: "Well, there were some numbers of Sponsors. I was a Sponsor of some of that Legislation. Representative Brummer was the House Sponsor of the Bill. Representative . . . Senator Schaffer was the Sponsor of one of the Bills."

Cullerton: "Who is the . . . Who is the Sponsor that put on this specific publication . . . "

Hastert: "Well, it was . . . it was, as far as we can tell, it was put on Senate Bill 97, which was a Luft – Brummer Bill, and as far as we can tell, it was put on by the Department of

* * *

Pierce: "Is this the Bill that says that if my assessment seems alright to me, and then a Local multiplier is put on it, and I receive no notice of that, then the next . . . then the following year, my assessment is the same as that Local multiplier which was placed on, I receive no notice of a change of assessment?"

Hastert: "Representative, this is not the Bill, that says that and I don't really recollect the Bill that says that, but those that were passed last year said that there was a Local multiplier that was put on and then it rolled over the next year, the next assessment year, there shall be notice given. Those provisions are still in the Bill. This merely clarifies when an annual notice is given."

Pierce: "So, in other words, you . . . you are not knocking out that notice."

Hastert: "That's correct."

Pierce: "Are you knocking out the notice where a state multiplier is put on and then the following year, the assessment is the same as the state multiplier?"

Hastert: "Are you talking about a county multiplier?"

Pierce: "No. How about the state equalizer?"

Hastert: "Well, the county multiplier is issued by the state."

Pierce: "Yeah. Right."

Hastert: "That . . . that would just be there also. We're not make . . . We're not knocking out any written notice at all. It's a publication thing that was put in by . . . it wasn't even . . . that information didn't even go through the Revenue Committee. That was put on the Senate Bill 97."

Speaker Breslin: "The Gentleman from Macon, Representative Dunn."

J. Dunn: "Will the Sponsor yield for a question?"

Speaker Breslin: "The Gentleman will yield for a question."

J. Dunn: "If this Bill becomes Law, what notices will be canceled or annulled or omitted that we now have . . . ?"

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